

**CITY OF
ASHLAND
LAND USE CODE**

TITLE 18

LAND USE

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CHAPTER 18.04

GENERAL PROVISIONS

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SECTION 18.04.010 Title.

This Title shall be known as the "Land Use Ordinance" of the City.

SECTION 18.04.020 Purpose.

The purpose of this Title is to encourage the most appropriate and efficient use of land; to accommodate orderly growth; to provide adequate open space for light and air; to conserve and stabilize the value of property; to protect and improve the aesthetic and visual qualities of the living environment; to aid in securing safety from fire and other dangers; to facilitate adequate provisions for maintaining sanitary conditions; to provide for adequate access to and through property; and in general to promote the public health, safety and the general welfare, all of which is in accordance with and in implementation of the Comprehensive Plan of the City of Ashland, Race, color, religion, sex, sexual orientation, national origin or disability shall not be an adverse consideration in making any decision under the Land Use Ordinance.

SECTION 18.04.030 Enactment and Effect.

This Title shall apply to all actions which have not reached the following steps:

- A. Site review: final approval by Staff Advisor or Commission;
- B. Partitioning and Subdivision: approval of preliminary plan;
- C. Planned Unit Developments: final approval by Commission;
- D. Signs: Final Approval;
- E. Variances and Conditional Use Permits: Commission approval;
- F. Zone text or map change: Ordinance Enactment;
- G. Uses permitted outright in C-1 & C-2 Zones.

(Ord. 2097 S11, 1980)

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CHAPTER 18.08

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SECTION 18.08.010 Generally.

As used in this Title, the masculine includes the feminine and the neuter and the singular includes the plural.

SECTION 18.08.019 Accessory Residential Unit.

A second dwelling unit either attached to a single family dwelling or located on the same lot with a single family dwelling and having an independent means of access. (Ord 2951, added, 07/01/2008)

SECTION 18.08.020 Accessory structure or use.

A structure or use incidental and subordinate to the main use of the property, and which is located on the same lot with the main use. Private garages and carports are accessory buildings when not attached to the main building. This definition shall also apply to mechanical equipment as defined in Section 18.08.485. (Ord 2289 S1,1984)

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SECTION 18.08.030 Agriculture or agricultural use.

The use of the land for crops and tree farming; the tilling of the soil, and the raising of field and tree crops.

SECTION 18.08.040 Agricultural structures.

Structures intended primarily or exclusively for support of an agricultural function, and exemplified by, but not restricted to barns, silos, water towers, windmills, greenhouses.

SECTION 18.08.050 Airspace obstruction.

Any structure, tree, land mass, or use of land which penetrates a transitional, horizontal, or conical surface of an airport, airport approach, or airport overlay as defined by this Title and/or regulations of the Federal Aviation Administration.

SECTION 18.08.060 Alley.

A narrow street, twenty (20) feet or less in width, through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

SECTION 18.08.070 Architectural Projection.

Eaves, decorative extensions, bay windows having no floor space, or other portions of a building having no living space nor key structural value.

SECTION 18.08.075 Automobile Service Station.

A business providing service to the motoring public. Such uses can include light repair, tune-ups, transmission or drive train repairs to automobiles or light trucks. No outside storage of any automobiles or materials such as tires, auto parts, etc., is allowable. (Ord 2121 S1, 1981)

SECTION 18.08.077 Bar.

Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on premises as accessory to the principal use. (Ord 2812, S1 1998)

SECTION 18.08.078 Basement.

That portion of a building with a floor-to-ceiling height of not less than 6.5 feet and where fifty percent (50%) or more of its perimeter walls are less than six (6) feet above natural grade and does not exceed twelve (12) feet above finish grade at any point. (Ord 2951, added, 07/01/2008)

SECTION 18.08.080 Block.

The land surrounded by streets and other right-of-way other than an alley, or land which is

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designated as a block on any recorded subdivision map.

SECTION 18.08.090 Boarding-room house.

A dwelling or part thereof, other than a hotel or motel, where lodging with or without means is provided, for compensation, for three (3) or more persons, for a minimum period of thirty (30) days. (Ord 2951, amended, 07/01/2008)

SECTION 18.08.100 Building line.

A line on a plat indicating the limit beyond which buildings or structures may not be erected.

SECTION 18.08.110 City.

The City of Ashland, Oregon.

SECTION 18.08.120 Commercial, or commercial use.

Any activity involving the sale of goods or services for profit.

SECTION 18.08.130 Commission.

The Planning Commission of the City. (Ord 2775, 1996)

SECTION 18.08.135 Condominiums.

A development providing for individual ownership of units or airspace in a multi-unit structure or structures, in which the underlying land and/or structures are held under joint dominion.

SECTION 18.08.140 Council.

The City Council of the City.

SECTION 18.08.150 Court, inner.

Area upon which any of four dwelling units in opposing (facing) dwellings opens.

SECTION 18.08.160 Coverage, lot or site.

Total area of all, buildings, parking areas, driveways, as well as other solid surfaces that will not allow normal water infiltration to the ground. The coverage is expressed as a percentage of such area in relation to the total gross area of the lot or site. Landscaping which does not negatively impact the natural water retention and soil characteristics of the site shall not be deemed part of the lot or site coverage. (Ord 2951, amended, 07/01/2008)

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SECTION 18.08.170 Day care, nursery or kindergarten.

A school or care center housing five (5) or more children for no more than twelve (12) hours per day where the student-to-staff ratio is ten (10) to one (1) or less.

SECTION 18.08.180 Development plan.

Any plan adopted by the Planning Commission for the guidance of growth and improvement of the City, including modifications or refinements made from time to time.

SECTION 18.08.185 Disc antenna.

A devise incorporating a reflective surface that is solid, open mesh, or bar configured and is the shape of a shallow dish, cone, horn, or cornucopia. Such devices may be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but is not limited to, what are commonly referred as satellite earth stations, TVROS, and microwave antennas. (Ord 2475 S2, 1988)

SECTION 18.08.190 District. A zoning district.

- A. "R" district indicates any residential zoning district.
- B. "C" district indicates any commercial zoning district.
- C. "M" district indicates any industrial zoning district.
- D. "A" district indicates any airport overlay district.
- E. "CM" district indicates any Croman Mill Plan zoning district.

(Ord 3036, amended, 08/17/2010)

SECTION 18.08.195 Driveway.

An access way serving a single dwelling unit or parcel of land, and no greater than 50' travel distance in length. A flag drive serving a flag lot shall not be a driveway. Single dwelling or parcel accesses greater than 50' in length shall be considered as a flag drive, and subject to all of the development requirements thereof. (Ord 2604 S1; ORD 2663 S1, 1992)

SECTION 18.08.196 Driving Surface.

A paved access capable of supporting up to 44,000 lbs. gross vehicle weight. Surface to be of minimum width as required by ordinance. Width shall be increased on turns where necessary to ensure fire apparatus remain on a paved surface during travel. (Ord 2663 S2, 1992)

SECTION 18.08.200 Dwelling, single-family.

A detached building containing one (1) dwelling unit.

SECTION 18.08.210 Dwelling, two family or duplex.

A detached building containing two (2) dwelling units.

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SECTION 18.08.220 Dwelling, multiple-family.

A building containing three (3) or more dwelling units.

SECTION 18.08.230 Dwelling, or dwelling unit.

One (1) or more rooms designed for occupancy by one (1) family and not having more than one (1) kitchen or cooking facility. For the purpose of this Title, the term "dwelling," or "dwelling unit," does not include the term "trailer house."

SECTION 18.08.240 Easement.

A grant of the right to use a strip of land for specific purposes.

SECTION 18.08.250 Family.

An individual, or two (2) or more persons related by blood, marriage, legal adoption, or guardianship; not more than five (5) persons who are not related by blood, marriage, legal adoption or guardianship.

SECTION 18.08.255 Fire Work Area.

An area capable of supporting up to 44,000 lbs. gross vehicle weight. Area to be a minimum of 20' by 40' and clear of vertical obstructions. (Ord 2663 S2, 1992)

SECTION 18.08.256 Floor areas, gross habitable.

The total area of all floors in a dwelling measured to its outside surfaces that are under the horizontal projection of the roof or floor above with at least seven (7) feet of head room, excluding uninhabitable spaces accessed solely by an exterior door. (Ord 2951, added, 07/01/2008)

SECTION 18.08.257 Floor area, gross.

The total area of all floors in a building measured to the outside surfaces that are under the horizontal projection of the roof or floor above. (Ord 2951, added, 07/01/2008)

SECTION 18.08.260 Garage, private.

An enclosed or open (carport) roofed accessory structure designed to house vehicles owned by occupant(s) of a residential structure.

SECTION 18.08.270 Garage sale.

A temporary activity conducted on the premises of a private residence for the purpose of disposal of goods or belongings of the residents of the dwelling. Such activity shall have a duration of not more than two (2) days, nor shall it occur more than twice within any three hundred sixty-five (365) day period. Such activity shall not be accompanied by any off-premises advertisement. For the purposes of this Title, garage sales shall not be considered a

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commercial activity.

SECTION 18.08.280 Grade or Ground Level.

The average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

SECTION 18.08.281 Ground floor.

The first floor of a building other than a cellar or basement. (Ord 2951, added, 07/01/2008)

SECTION 18.08.285 Group Home.

A dwelling housing a group in excess of five (5) individuals not related by blood, marriage, adoption or guardianship who function as a single housekeeping unit under a common management plan based on an intentionally structured relationship providing organization and stability. Such facilities can include, but are not limited to, homes for orphans, foster children, the elderly and battered women and children. (Ord 2348 S2, 1985)

SECTION 18.08.290 Height of buildings.

The vertical distance from the "grade" to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

SECTION 18.08.291 Historic District.

A district identified as historically significant under the City of Ashland Comprehensive Plan and its implementing regulations (e.g. overlay zones). (Ord 2951, added, 07/01/2008)

SECTION 18.08.300 Home occupation.

A commercial activity permitted in a residential zone as provided in Chapter 18.94.

SECTION 18.08.305 Home-Oriented Commercial Activities.

The operation of small local-convenience businesses within the Railroad District as identified by the Ashland Historic Commission and approved by the Council. Such businesses may include grocery stores, barber and beauty shops and similar uses, provided the residential character of the property is maintained and no additional off-street parking shall be required.

SECTION 18.08.310 Hospital.

An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.

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SECTION 18.08.315 Hostel.

Any establishment having beds rented or kept for rent on a daily basis to travelers for a charge or fee paid or to be paid for rental or use of facilities and which are operated, managed or maintained under the sponsorship of a non-profit organization which holds a valid exemption from federal income taxes under the Internal Revenue Code of 1954, as amended. (Ord 2353 S1, 1985)

SECTION 18.08.320 Hotel.

A building in which lodging is provided to guests for compensation and in which no provisions are made for cooking in the lodging rooms.

SECTION 18.08.330 Industrial, or industrial use.

An activity related to the manufacture, production or storage of produce to be transported elsewhere for retail sale.

SECTION 18.08.340 Kennel.

Any premises where four (4) or more dogs or cats are kept or permitted to remain, except veterinary clinics.

SECTION 18.08.341 LEED® Accredited Professional.

A person who has earned a credential as a Leadership in Energy and Environmental Design (LEED®) Accredited Professional from the U.S. Green Building Council, or Green Building Certification Institute, in accordance with their standards and requirements. (Ord 3036, added, 08/17/2010)

SECTION 18.08.342 LEED® Certification.

A building registered with the U.S. Green Building Council which has satisfied all prerequisites and has earned a minimum number of points outlined in the Leadership in Energy and Environmental Design (LEED®) Rating System under which it is registered. Levels of certification include Certified, Silver, Gold and Platinum. (Ord 3036, added, 08/17/2010)

SECTION 18.08.343 LEED® Green Building Rating System” or “LEED® Rating System.

The most recently published version of the Leadership in Energy and Environmental Design (LEED®) Green Building Rating Systems by the U.S. Green Building Council, or the version to be superseded for one year after the publication of a new applicable LEED® Rating System version. (Ord 3036, added, 08/17/2010)

SECTION 18.08.345. Legislative amendment.

An amendment to the text of the land use ordinance or the comprehensive plan or an amendment of the zoning map, comprehensive plan maps or other official maps including the street dedication map described in section 18.82.050, for land involving numerous parcels under diverse ownerships. (Ord 2775, 1996)

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SECTION 18.08.350 Lot.

A unit of land created by a partition or a subdivision, or a unit or contiguous units of land under single ownership, which complies with all applicable laws at the time such lots were created. Any contiguous ownership of non-conforming lots will be considered one (1) tract of land.
(Ord 2097 S1, 1980)

SECTION 18.08.360 Lot area.

The total horizontal area within the lot lines of a lot, said area to be exclusive of street right-of-way.

SECTION 18.08.370 Lot corner.

A lot abutting the intersection of two or more streets other than an alley.

SECTION 18.08.380 Lot depth.

The horizontal distance from the midpoint of the front lot line to the midpoint of the rear of lot line.

SECTION 18.08.390 Lot, flag.

Any lot which has frontage on a city street which is less than 40 feet, and which is provided with access by an alley or a driveway parallel to the lot line of a lot having standard access.
(Ord 2757, 1995)

SECTION 18.08.400 Lot, interior.

A lot other than a corner lot.

SECTION 18.08.410 Lot line.

The property line bounding a lot.

SECTION 18.08.420 Lot line, front.

In the case of an interior lot, the lot line separating the lot from the street other than an alley. A corner lot shall have one (1) street line considered the front lot line. The narrower street frontage shall be the front lot line except when the Staff Advisor determines topographical or access problems make such a designation impractical.

SECTION 18.08.430 Lot line, rear.

A lot line which is opposite and most distant from the front lot line, and in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.

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SECTION 18.08.440 Lot line, side.

Any lot line not a front or rear lot line.

SECTION 18.08.450 Lot, reversed corner.

A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.

SECTION 18.08.460 Lot, through.

An interior lot having frontage on two (2) parallel or approximately parallel streets other than alleys. Such a lot shall have one (1) front yard fronting on the primary public street.

SECTION 18.08.470 Lot width.

The average (mean) horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

SECTION 18.08.475 Manufactured Home.

Residential structures with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the national Manufactured Housing Construction and Safety Standards Act of 1974, as amended on August 22, 1981.

(Ord 2612 S1, 1991)

SECTION 18.08.480 Map.

A diagram or drawing of a partition or subdivision or any other land use or land development matter.

SECTION 18.08.485 Mechanical Equipment.

Equipment or devices installed for a use appurtenant to the primary use. Such equipment shall include heating and air conditioning equipment, solar collectors, parabolic antennas, disc antenna, radio or TV receiving or transmitting antennas, and any power generating devices.

(Ord 2951, amended, 07/01/2008)

SECTION 18.08.487 Minor amendment.

An amendment to a subdivision or partition plat that:

- A. Does not increase the number of lots or parcels created by the subdivision or partition;
- B. Does not enlarge the boundaries of subdivided or partitioned area;
- C. Does not change the general location or amount of land devoted to a specific land use; or
- D. Makes only minor shifting of the established lines, location or size of buildings or building envelopes, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces. (Ord 2775, 1996)

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SECTION 18.08.490 Mobile home.

A building or vehicle which is portable or which was originally designed to be portable and which was constructed or modified to permit occupancy for dwelling purposes. This term shall include self-propelled mobile homes, pickup campers, mobile homes, travel trailers, trailers, and other similar equipment which may be utilized for dwelling purposes.

SECTION 18.08.500 Mobile home court, park or subdivision.

A plot of ground upon which one (1) or more mobile homes occupied for dwelling purposes are located, regardless of whether a charge is made for such accommodation.

SECTION 18.08.510 Motel.

A building or group of buildings on the same lot containing guest units for rental to transients, with separate entrances directly exterior and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities. (Ord 2052, 1979)

SECTION 18.08.515 Mural.

A graphic design on a building which represents a person, place, scene or other artistic endeavor. This definition does not include architectural enhancement of a building facade; however, this would be subject to the procedural and substantive design review portion of the Site Review Chapter. (Ord 2097 S2, 1980)

SECTION 18.08.517 Nightclub.

An establishment dispensing liquor and meals and in which live music, dancing, or entertainment is conducted. (Ord 2812, S1 1998)

SECTION 18.08.520 Nonconforming structure or use.

An existing structure or use lawful at the time the ordinance codified in this Title, or any amendment thereto, becomes effective, and which does not conform to the requirements of the zone in which it is located.

SECTION 18.08.530 Parking Space.

A space designed and designated to provide parking for a motor vehicle and in compliance with Chapter 18.92 parking standards. (Ord 2951, amended, 07/01/2008)

SECTION 18.08.540 Partition.

To divide an area or tract of land into three (3) or fewer lots within twelve (12) months.

SECTION 18.08.550 Partition, major land.

A partition which necessitates the creation of a road or street.

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SECTION 18.08.560 Partition, minor land.

A partition that does not necessitate the creation of a road or street.

SECTION 18.08.570 Pedestrian way.

A right-of-way for pedestrian traffic.

SECTION 18.08.580 Person.

An individual, firm, partnership, association, corporation, estate, receiver, syndicate, branch of government, social or fraternal organization, or any other group or combination acting as a legal entity, and including any trustee, assignee, or other representative thereof.

SECTION 18.08.590 Planned unit development.

A development on land under unified control according to comprehensive plans and a single development plan for uses and buildings related to the character of the district with a program for operation and maintenance of common areas.

SECTION 18.08.595 Planning Application, Planning Action.

A planning application is an application, other than an application for legislative amendment, filed pursuant to the requirements of this ordinance. A planning action is a proceeding pursuant to this ordinance in which the legal rights, duties or privileges of specific parties are determined, and any appeal or review of such proceeding, pursuant to the provisions of this ordinance. A planning action does not include a ministerial action or a legislative amendment.

(Ord 2951, amended, 07/01/2008)

SECTION 18.08.595 Planning action.

A proceeding pursuant to this ordinance in which the legal rights, duties or privileges of specific parties are determined, and any appeal or review of such proceeding, pursuant to the provisions of this ordinance. A planning action does not include a ministerial action or a legislative amendment. (Ord 2775, 1996)

SECTION 18.08.600 Plat.

A diagram, drawing or replat containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

SECTION 18.08.601 Porch, enclosed/unenclosed.

Covered porches, exterior balconies, or other similar areas attached to a building and having dimensions of not less than six (6) feet in depth by eight (8) feet in length. "Enclosed means the porch contains wall(s) that are more than forty-two (42) inches in height measured from finished floor level, for fifty percent (50%) or more of the porch perimeter. "Unenclosed" means the porch contains no such walls, but it may be covered. (Ord 2951, added, 07/01/2008)

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SECTION 18.08.602 Porous Solid Surface.

Porous solid surface is a permeable surface built with an underlying stone reservoir that temporarily stores surface runoff before it infiltrates into the subsoil. Porous solid surfaces include pervious asphalt, pervious concrete, grass or permeable pavers, or decks that allow runoff to infiltrate the subsoil beneath the deck. (Ord 2951, added, 07/01/2008)

SECTION 18.08.610 Private way.

A private easement or ownership established by deed for vehicular access to property.

SECTION 18.08.615 Quarry Face.

The split face of the incision where the disturbed surface meets the natural, undisturbed surface. (Ord 2290 S4, 1984)

SECTION 18.08.616 Reconstruct.

To recreate or reassemble a structure or building with a new or replacement structure that recreates or reproduces its form, shape and location as originally built. (Ord 2951, added, 07/01/2008)

SECTION 18.08.620 Recreational vehicle or travel trailer.

A self-propelled or towable mobile unit used for temporary dwelling purposes by travelers.

SECTION 18.08.630 Residential, or residential use.

Any activity, as contrasted with commercial and industrial activities, which involves the peaceful, private conduct of pursuits related to the living environment.

SECTION 18.08.635 Restaurant.

An establishment where food and drink are prepared, served, and consumed. Consumption may occur within the principal building or outside the confines of the building. (Ord 2812, S1 1998)

SECTION 18.08.640 Secretary.

The Secretary to the Planning Commission who is the Director of the City Planning Department.

SECTION 18.08.650 Setback.

The horizontal perpendicular distance from a lot line to the closest part of a building or structure that is subject to a setback or yard requirement. Architectural projections may intrude into required setbacks as set forth in Section 18.68.040. When multi-story setbacks are specified, the setback for a story above the ground floor is measured horizontally from the lot line to the plane of the nearest wall of the upper story. (Ord 2951, amended, 07/01/2008)

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SECTION 18.08.655 Shadow Plan.

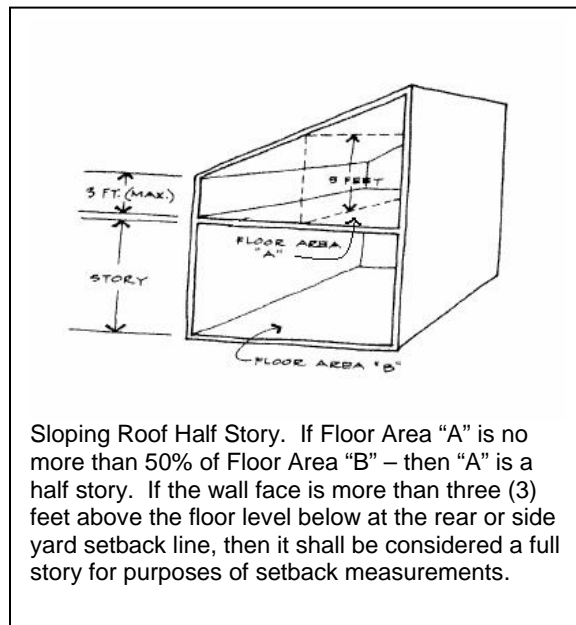
A schematic or conceptual design for future land development when a lot could be developed at a higher intensity. A shadow plan demonstrates that the proposed development will not impede the future use of the lot to be fully developed to the required building intensity standards (i.e. Floor Area Ratio), and that the proposed development has been planned to prevent piecemeal and uncoordinated development. (Ord 3054, added, 12/16/2011)

SECTION 18.08.660 Staff advisor.

The Secretary, as defined in 18.08.640, or an authorized representative.

SECTION 18.08.661 Story, half.

A half story is a space under a sloping roof that has the line of intersection of the roof and exterior wall face not more than three (3) feet above the floor level below and in which space the floor area with head room of five (5) feet or more occupies no more than fifty percent (50%) of the total floor area of the story directly beneath. (Ord 2951, added, 07/01/2008)



SECTION 18.08.662 Story.

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. A basement shall not be considered a story. If the wall face of the upper most floor at the rear or side yard setback line is more than three (3) feet above the floor level below, the upper floor shall be considered a story for purposes of setbacks. Unenclosed decks, porches, balconies and similar features are not considered stories. (Ord 2951, added, 07/01/2008)

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SECTION 18.08.670 Street.

A public right-of-way for roadway, sidewalk, and utility installation including the terms "road," "highway," "land," "place," "avenue," "alley" or other similar designations. The entire width between the right-of-way lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic.

SECTION 18.08.680 Street, arterial.

A street used primarily for through traffic.

SECTION 18.08.690 Street, collector.

A street used to some extent for through traffic and to some extent for access to abutting properties.

SECTION 18.08.700 Street, cul-de-sac.

A short dead-end street terminated by a vehicle turnaround.

SECTION 18.08.710 Street, half.

A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

SECTION 18.08.720 Street, marginal access.

A minor street parallel and adjacent to a major arterial street providing access to abutting properties but protected from through traffic.

SECTION 18.08.730 Street, minor.

A street intended primarily for access to abutting properties.

SECTION 18.08.740 Story.

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, the basement or cellar shall be considered a story.

SECTION 18.08.750 Structure or building.

That which is built or constructed; an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on, in, or above the ground or which is attached to something having a location

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on, in or above the ground. Structures thirty (30) inches in height or less, including entry stairs, uncovered porches, patios and similar structures, are exempt from the side and rear yard setback requirements and from half (1/2) the yard requirements for the front yard and side yard abutting a public street. (Ord 2951, amended, 07/01/2008)

SECTION 18.08.760 Structural alteration.

A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams or girders, or the roof.

SECTION 18.08.770 Subdivide land.

To divide an area or tract of land into four (4) or more lots within twelve (12) months.

SECTION 18.08.780 Subdivision.

An act of subdividing land or a tract of land subdivided as defined in this Section.

SECTION 18.08.790 Tract, or area of land.

A unit, or contiguous units, of land under single ownership. (Ord 2052, 1979)

SECTION 18.08.795 Traveler's Accommodations.

Any establishment in a residential zone having rooms or dwellings rented or kept for rent to travelers or transients for a charge or fee paid or to be paid for rental or use of such facilities for a period of less than thirty (30) days. (Ord 2951, amended, 07/01/2008)

SECTION 18.08.800 Temporary Use.

A short-term, seasonal, or intermittent use. Such use shall be approved by Conditional Use Permit only, with such conditions as the Commission deems reasonable in accordance with the Conditional Use standards.

SECTION 18.08.810 Use.

The purpose for which land or a structure is designated, arranged, or intended, or for which it is occupied or maintained.

SECTION 18.08.820 Vision clearance area.

A triangular area on a lot at the intersection of two (2) streets or a street and a railroad, two (2) sides of which are lot lines measured from the corner intersection of the lot lines for a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines or intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. (Ord 2052, 1979)

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SECTION 18.08.825 Water Budget.

The amount of water a landscape needs taking into account the inputs and outputs of water to and from the root zone. Inputs, such as precipitation, are subtracted from outputs, such as evapotranspiration, to calculate the water needs of the landscape. (Ord 3036, added, 08/17/2010)

SECTION 18.08.830 Yard.

An open space on a lot which is unobstructed by a structure. (Ord 2951, amended, 07/01/2008)

SECTION 18.08.840 Yard, front.

A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building.

SECTION 18.08.850 Yard, side.

An open space between the front and rear yards measured horizontally and at right angles from the side lot line to the nearest point of the building.

SECTION 18.08.860 Yard, rear.

A yard between side lot lines and measured horizontally at right angles to the rear yard line from the rear yard line to the nearest point of the building.

SECTION 18.08.870 Zoning permit.

An acknowledgement made to the Building Official by the Staff Advisor that the application for a building permit meets the requirements of the Land Use Ordinance. Where applicable a zoning permit may also set forth any special conditions to be met by the applicant prior to issuance of a Certificate of Occupancy or any other planning and zoning related conditions to be enforced by the Building Official. (Ord 2775, 1996)

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CHAPTER 18.12

DISTRICTS AND ZONING MAP

SECTIONS:

- 18.12.010 Compliance Required**
- 18.12.020 Classification of Districts**
- 18.12.030 Zoning Map and Land Use Control Maps**
- 18.12.040 District Boundaries**
- 18.12.050 Similar Uses**

SECTION 18.12.010 Compliance Required.

No structure or lot shall hereafter be used or occupied and no structure or part thereof shall be created, moved, reconstructed, extended, enlarge, or altered contrary to the provisions of this Title.

SECTION 18.12.020 Classification of Districts.

For the purpose of this Title, the City is divided into zoning districts designated as follows:
(Ord 2951, amended, 07/01/2008; Ord 3036, amended 08/17/2010, ORD 3054, amended 12/16/2011)

Zoning Districts and Overlays	Map Symbol and Abbreviated Designation
Airport Overlay	A
Residential - Rural	RR
Residential - Single Family	R-1
Residential - Low Density Multiple Family	R-2
Residential - High Density Multiple Family	R-3
Commercial	C-1
Commercial - Downtown	C-1-D
Employment	E-1
Industrial	M-1
Woodland Residential	WR
SOU - Southern Oregon University	SOU
Performance Standards Options Overlay	PSO
Pedestrian Place Overlay	PP
Detail Site Review Zone	DSR
Health Care Services Zone	HC
North Mountain Neighborhood	NM
Croman Mill District Zone	CM
Residential Overlay	R
Freeway Sign Overlay	F

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SECTION 18.12.030 Zoning Map and Land Use Control Maps.

- A. The location and boundaries of the zoning districts designated in Section 18.12.020, physical and environmental constraints designated in Section 18.62.060, Detail Site Review Zone designated in Chapter 18.72 are established as shown on the map entitled "Zoning and Land Use Control Maps of the City of Ashland," dated with the effective date of the ordinance codified herein, and signed by the Mayor and City Recorder and hereafter referred to as the "Zoning and Land Use Control Maps."
- B. The signed copy of said Zoning and Land Use Control Maps shall be maintained on file in the office of the City Recorder and is made a part of this Title.

(Ord 2951, amended, 07/01/2008)

SECTION 18.12.040 District Boundaries.

Unless otherwise specified, district boundaries are lot lines, the center lines of streets, and railroad right-of-way, or such lines extended. If a district boundary divides a lot into two (2) districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided the boundary adjustment is for a distance not to exceed twenty (20) feet.

SECTION 18.12.050 Similar Uses.

Where a particular use is not listed as permitted or conditional use in a given zone, the Planning Commission may, after appropriate analysis, determine that the use is similar to those listed in type, kind and function, and therefore properly allocated to that zone.

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CHAPTER 18.14

W-R WOODLAND RESIDENTIAL DISTRICT

SECTIONS:

- 18.14.010 Purpose.**
18.14.020 Permitted Uses.
18.14.030 W-R, Conditional Uses.
18.14.040 General Regulations.

SECTION 18.14.010 Purpose.

The purpose of the W-R district is to stabilize and protect the steep and forested areas within the City. Application of the zone will ensure that the forest, environmental erosion control and scenic values of these areas are protected from incompatible development which could result in a degradation of their values.

SECTION 18.14.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Single family dwellings.
- B. Agriculture and farm uses, except animal sales yards and feed yards, hog farms and any animal fed garbage.
- C. Parks and recreation facilities.
- D. Home occupations.

SECTION 18.14.030 W-R, Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.104, Conditional Use Permits:

- A. Churches and similar religious institutions.
- B. Public and public utility buildings, structures and uses, but not including corporation, storage or repair yards, warehouses and similar uses.
- C. Private recreational uses and facilities, provided that the forested character of the area is Not disturbed.
- D. Public and quasi-public halls, lodges and clubs.
- E. Schools, both public and private.
- F. Daycare centers.
- G. Homes for the elderly and nursing homes.
- H. Disc antenna for commercial use.
- I. Nonconforming use or structure changes required by Section 18.68.090.
- J. Temporary uses.
- K. Wireless Communication Facilities when attached to existing structures and authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008)

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SECTION 18.14.040 General Regulations.

- A. Minimum lot area. The minimum lot area in the W-R zone is determined by the chart below:

Slope	Min. Lot Size	DU/Acre
Less than 40%	2.0	.5
40 to 50%	2.5	.4
50 to 60%	5.0	.2
Over 60%	10.0	.1
Outside UGB	20.0	.05

- B. Maximum lot coverage. The maximum lot coverage shall be seven (7%) percent.
- C. Minimum lot width. All lots shall be at least one hundred (100) feet in width.
- D. Minimum lot depth. All lots shall be at least one hundred-fifty (150) feet in depth.
- E. Standard yard requirements.
1. Minimum front yard - There shall be a front yard of at least twenty (20) feet.
 2. Minimum side yard - There shall be a minimum side yard of six (6) feet, except ten (10) feet along a side yard facing the street on a corner lot.
 3. Minimum rear yard - There shall be a minimum rear yard of ten (10) feet plus ten (10) feet for each story in excess of one (1) story.
 4. In addition, the setbacks must comply with Section 18.70 of this Title which provides for solar access.
- F. Maximum building height. No structure shall be over thirty-five (35) feet or two and one-half (2 1/2) stories in height, whichever is less.
- G. Aggregate removal prohibited. There shall be no mining of granite for aggregate, quarry rock or other open pit mining in this zone.
- H. Limits on density transfer. All developments, with the exception of partitioning, must be developed under the Performance Standards, Chapter 18.88. No more than twenty-five (25%) percent of the density allowed in a Woodland Residential zone may be transferred to a higher density zone in a Performance Standard development.

(Ord. 2228, 1982)

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CHAPTER 18.16

R-R RURAL RESIDENTIAL DISTRICT

SECTIONS:

- 18.16.010 Purpose.**
- 18.16.020 Permitted Uses.**
- 18.16.030 R-R, Conditional Uses.**
- 18.16.040 R-R, General Regulations .**

SECTION 18.16.010 Purpose.

The purpose of the RR district is to stabilize and protect the rural residential characteristics of areas which, because of topography, level of services, or other natural or development factors are best served by a large lot designation.

SECTION 18.16.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Single family dwellings.
- B. Agriculture and farm uses, except animal sales yards and feed yards, hog farms, and any animals fed garbage.
- C. Public schools, parks and recreation facilities.
- D. Residential Planned Unit Developments when authorized in accordance with Chapter 18.88, Planned Unit Development.
- E. Home occupations.

SECTION 18.16.030 R-R, Conditional Uses.

The following uses and their accessory uses are permitted outright:

The following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.104, Conditional Use Permits:

- A. Churches and similar religious institutions.
- B. Hospitals, rest, nursing and convalescent homes.
- C. Parochial and private schools, including nursery schools, kindergarten, and day nurseries; business, dancing, trade technical, or similar school.
- D. Public and public utility buildings, structures and uses; but not including corporation, storage or repair yards, warehouses, and similar uses.
- E. Private recreational uses and facilities, including country clubs, golf courses, swimming clubs, and tennis clubs, but not including such intensive commercial recreational uses as a driving range, race track, or amusement park.
- F. Riding instructions and academies.
- G. Cemeteries, mausoleums, columbariums, crematoriums.
- H. Excavation and removal of sand, gravel, stone, loam, dirt, or other earth products, subject to Section 18.68.080, Commercial Excavation.
- I. Public and quasi-public halls, lodges and clubs.

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- J. Accessory residential units, subject to the Type I procedure and criteria, and the following additional criteria:
 - 1. The proposal must conform with the overall maximum lot coverage and setback requirements of the underlying zone.
 - 2. The maximum number of dwelling units shall not exceed 2 per lot.
 - 3. The maximum gross habitable floor area (GHFA) of the accessory residential structure shall not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 1000 sq. ft. GHFA.
 - 4. Additional parking shall be in conformance with the off-street Parking provisions for single-family dwellings of this Title.
 - 5. If the accessory residential unit is not part of the primary dwelling, all construction and land disturbance associated with the accessory residential unit shall occur on lands with less than 25% slope.
 - 6. If located in the Wildfire zone, the accessory residential unit shall have a residential sprinkler system installed.
 - 7. The lot on which the accessory residential unit is located shall have access to an improved city street, paved to a minimum of 20' in width, with curbs, gutters, and sidewalks.
 - 8. No on-street parking credits shall be allowed for accessory residential units in the RR-.5 zone."
- K. Disc antenna for commercial use.
- L. Nonconforming use or structure changes required by Section 18.68.090.
- M. Temporary uses.
- N. Wireless Communication Facilities when attached to existing structures and authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008; Ord 2887, Amended, 08/20/2002)

SECTION 18.16.040 R-R, General Regulations.

- A. Minimum lot area: Minimum lot areas in the RR zone may be one-half ($\frac{1}{2}$), one (1), and two and one-half ($2\frac{1}{2}$) acres, depending on the topographic nature, service availability and surrounding land uses, and other relevant characteristics of the area.
- B. Maximum lot coverage:
 - 1. One-half ($\frac{1}{2}$) acre lots (RR-.5): twenty (20%) percent maximum.
 - 2. One (1) acre lots (RR-1): twelve (12%) percent maximum.
 - 3. Two and one-half ($2\frac{1}{2}$) acre lots (RR-2.5): seven (7%) percent maximum.
- C. Minimum lot width: All lots shall be at least one hundred (100) feet in width.
- D. Lot depth: All lots shall be at least one hundred fifty (150) feet in depth. No lot depth shall be more than three (3) times its width.
- E. Minimum front yard: There shall be a front yard of at least twenty (20) feet.
- F. Minimum side yard: There shall be a minimum side yard of six (6) feet, except ten (10) feet along the side yard facing the street on a corner lot.
- G. Minimum rear yard: There shall be a minimum rear yard of ten (10) feet plus ten (10) feet for each story in excess of one (1) story.
- H. Maximum building height: No structure shall be over thirty-five (35) feet or two and one-half ($2\frac{1}{2}$) stories in height, whichever is less. This does not include agricultural structures fifty (50) feet or more from any property line.

(ORD 2951, amended, 07/01/2008)

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CHAPTER 18.20

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

SECTIONS:

18.20.010	Purpose.
18.20.020	Permitted Uses.
18.20.030	R-1, Conditional Uses.
18.20.040	General Regulations.

SECTION 18.20.010 Purpose.

The purpose of the R-1 district is to stabilize and protect the suburban characteristics of the district and to promote and encourage a suitable environment for family life.

SECTION 18.20.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Single family dwelling, utilizing at least two of the following design features to provide visual relief along the front of the residence:
 - 1. Dormers
 - 2. Gables
 - 3. Recessed entries
 - 4. Covered porch entries
 - 5. Cupolas
 - 6. Pillars or posts
 - 7. Bay window (min. 12" projection)
 - 8. Eaves (min. 6" projection)
 - 9. Off-sets in building face or roof (min. 16")
(Ord. 2612 S2, 1991)
- B. Duplex on corner lots, provided that no two such uses shall be contiguous, except that this provision shall not apply to any area which has been developed or is part of an existing subdivision or established platted neighborhood at the time of enactment of this ordinance. Such structures shall be subject to provisions of the Site Review Chapter.
- C. Agriculture.
- D. The keeping of livestock, except swine, provided that:
 - 1. No livestock shall be kept on any lot less than one (1) acre in area.
 - 2. No more than two (2) head of livestock over the age of six (6) months may be maintained per acre.
 - 3. Barns, stables, and other buildings and structures to house said livestock shall not be located closer than fifty (50) feet to any property line.
- E. Public schools, parks, and recreational facilities.
- F. Residential Planned Unit Developments when authorized in accordance with Chapter 18.88, Planned Unit Development.
- G. Home occupations.
- H. Manufactured homes on individual lots, subject to the following criteria:
 - 1. The portion of the lot on which the manufactured home is to be located shall not

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- exceed a slope of 10% prior to excavation or fill on the parcel.
2. The manufactured home shall be multi-sectional, no less than 28 feet in width, and have a minimum enclosed floor area of 1,000 sq. ft.
 3. The manufactured home shall have a roof pitch of a minimum of 14 degrees (3 feet in height for each 12 feet in width).
 4. The manufactured home shall have no metal siding or roofing, and shall have wood or wood-product siding and composition roofing, or approved equivalent.
 5. The manufactured home shall have an auxiliary storage building or garage at least 14 x 20 feet in area, constructed of similar materials as that used on the exterior of the manufactured home.
 6. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code.
 7. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918.
 8. The foundation area of the manufactured home shall be fully skirted.
 9. The manufactured home shall not be located in the Ashland Historic Interest Area, as defined in the Comprehensive Plan.
 10. The manufactured home shall incorporate at least two of the design features listed in 18.20.020 A. above.

(Ord. 2612 S3, 1991)

SECTION 18.20.030 R-1, Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with Chapter 18.104, Conditional Use Permits.

- A. Churches and similar religious institutions.
- B. Hospitals, rest, nursing or convalescent homes.
- C. Parochial and private schools, including nursery schools, kindergartens, day nurseries, business, dancing, trade, technical or similar schools.
- D. Public and public utility buildings, structures and uses.
(Ord. 2121 S2, 1981)
- E. Recreational uses and facilities, including country clubs, golf courses, swimming clubs and tennis clubs; but not including such intensive commercial recreational uses as a driving range, race track or amusement park.
- F. Off-street parking lots adjoining a C or M district subject to the provisions of Chapter 18.92, Off-Street Parking.
- G. Public and quasi-public halls, lodges and clubs.
- H. Accessory residential units, subject to the Type I procedure and criteria, and the following additional criteria:
 1. The proposal must conform with the overall maximum lot coverage and setback requirements of the underlying zone.
 2. The maximum number of dwelling units shall not exceed 2 per lot.
 3. The maximum gross habitable floor area (GHFA) of the accessory residential structure shall not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 1000 sq. ft. GHFA.

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- 4. Additional parking shall be in conformance with the off-street Parking provisions for single-family dwellings of this Title.
- I. **Group Homes.**
(Ord. 2348 S1, 1985; Ord. 2624 S1, 1991)
- J. Disc antenna for commercial use.
- K. Dwellings in the Historic District exceeding the maximum permitted floor area pursuant to Section 18.20.040.
- L. Nonconforming use or structure changes required by Section 18.68.090.
- M. Temporary uses.
- N. **Wireless Communication Facilities** when attached to existing structures and authorized pursuant to Section 18.72.180.
(ORD 2951, amended, 07/01/2008)

SECTION 18.20.040 General Regulations.

- A. **Minimum lot area:** Basic minimum lot area in the R-1 zone shall be five thousand (5,000) square feet, except six thousand (6,000) square feet for corner lots. R-1 areas may be designed for seventy-five hundred (7,500), or ten thousand (10,000) square foot minimum lot sizes where slopes or other conditions make larger sizes necessary. Permitted lot sizes shall be indicated by a number following the R-1 notation which represents allowable minimum square footage in thousands of square feet, as follows:

R-1-5	5,000 square feet
R-1-7.5	7,500 square feet
R-1-10	10,000 square feet

- B. **Minimum lot width:**

Interior lots	50 feet
Corner lots	60 feet
All R-1-7.5 lots	65 feet
All R-1-10 lots	75 feet

- C. **Lot Depth:** All lots shall have a minimum depth of eighty (80) feet, and a maximum depth of one hundred fifty (150) feet unless lot configuration prevents further development of the back of the lot. Maximum lot depth requirements shall not apply to lots created by a minor land partition. No lot shall have a width greater than its depth, and no lot shall exceed one hundred fifty (150) feet in width.

(Ord. 2052, 1979; Ord. 2425 S3, 1988)

- D. **Standard Yard Requirements:** Front yards shall be a minimum of, 15 feet excluding garages. Unenclosed porches shall be permitted with a minimum setback of eight feet or the width of any existing public utility easement, whichever is greater, from the front property line. All garages accessed from the front shall have a minimum setback of 20' from the front property line; side yards, six feet; the side yard of a corner lot abutting a public street shall have a ten foot setback; rear yard, ten feet plus ten feet for each story in excess of one story. In addition, the setbacks must comply with Chapter 18.70 which provides for Solar Access.

(Ord. 2097 S5, 1980; Ord. 2121 Se, 1981, Ord. 2752, 1995)

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- E. Maximum Building Height:** No structure shall be over thirty-five (35) feet or two and one-half (2 1/2) stories in height, whichever is less. Structures within the Historic District shall not exceed a height of 30 feet.
- F. Maximum Coverage:** Maximum lot coverage shall be fifty (50%) percent in an R-1-5 District, forty-five (45%) percent in an R-1-7.5 District, and forty (40%) percent in an R-1-10 District.
- G. Maximum Permitted Floor Area for dwellings within the Historic District.** The maximum permitted floor area for primary dwellings within the Historic District shall be determined by the following:
1. The maximum permitted floor area shall include the total floor space of all floors (gross floor area) of the primary dwelling measured to the outside surfaces of the building, including but not limited to exterior walls, potential living spaces within the structure with at least 7' of head room and attached garages. The floor area shall not include basements, detached garages, detached accessory structures, or detached accessory residential units. Detached garages, accessory structures, or accessory residential units shall be separated from other structures by a minimum of 6', except that unenclosed breezeways or similar open structures may connect the structures.
 2. The following formula shall be used to calculate the Maximum Permitted Floor Area (MPFA), provided however, that regardless of lot size, the MPFA shall not exceed 3,249 sq. ft.:

$$\text{Lot area} \times \text{Adj. Factor} = \text{Adjusted lot area} \times 0.38 \text{ FAR} = \text{MPFA}$$

(from Table 1)

TABLE 1 Adjustment Factor Table

Lot Area	Adj. Factor	Lot Area	Adj. Factor	Lot Area	Adj. Factor	Lot Area	Adj. Factor
0 – 2500	1.20	6501 - 7000	0.88	11001 – 11500	0.66	15501 - 16000	0.55
2501 – 3000	1.16	7001 - 7500	0.85	11501 – 12000	0.64	16001 - 16500	0.54
3001 – 3500	1.12	7501 - 8000	0.82	12001 – 12500	0.62	16501 - 17000	0.53
3501 – 4000	1.08	8001 - 8500	0.79	12501 – 13000	0.61	17001 - 17500	0.52
4001 – 4500	1.04	8501 - 9000	0.77	13001 – 13500	0.60	17501 - 18000	0.51
4501 – 5000	1.00	9001 - 9500	0.75	13501 – 14000	0.59	18001 - 18500	0.50
5001 – 5500	0.97	9501 - 10000	0.73	14001 – 14500	0.58	18501 - 19000	0.49
5501 – 6000	0.94	10001 - 10500	0.71	14501 – 15000	0.57	19001 - 19500	0.48
6001 – 6500	0.91	10501 - 11000	0.68	15001 – 15500	0.56	19500 and greater	0.47

- H. New single family structures and additions to existing single family structures within the Historic District** shall not exceed the MPFA unless a Conditional Use Permit is obtained. In no case shall the permitted floor area exceed 25% of the MPFA. In addition to the findings for a Conditional Use Permit, the standards noted in Section IV of the Site Design and Use Standards shall be considered in the request."

(Ord 2901, Amended, 09/16/2003)

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CHAPTER 18.22

R-1-3.5 SUBURBAN RESIDENTIAL DISTRICT

SECTIONS:

18.22.010	Purpose.
18.22.020	Permitted Uses.
18.22.030	R-1-3.5, Conditional Uses.
18.22.040	R-1-3.5, General Regulations.

SECTION 18.22.010 Purpose.

The purposes of the R-1-3.5 district is to provide an environment suitable for urban living. The district is intended to provide housing at densities which are higher than conventional single-family zones but are still designed for individual ownership.

SECTION 18.22.020 Permitted Uses.

- A. Single-family dwellings.
- B. Multi-family dwellings.
- C. Agriculture.
- D. Public schools, parks and recreation facilities.
- E. Residential planned unit developments when authorized in accordance with Chapter 18.88.
- F. Home occupations.
- G. Boarding or rooming houses, fraternity or sorority houses and dormitories.
- H. Nursery schools, kindergartens and day nurseries.
- I. Mobile home developments when authorized in accordance with Chapter 18.84.

SECTION 18.22.030 R-1-3.5, Conditional Uses.

- A. Churches and similar religious institutions.
- B. Hospitals, rest, nursing or convalescent homes.
- C. Parochial and private schools, including nursery schools, kindergartens, day nurseries, dancing, trade, technical or similar schools.
- D. Public and public utility buildings, structures and uses.
- E. Recreational uses and facilities, including country clubs, golf courses, swimming clubs and tennis clubs, but not including such intensive commercial recreational uses as a driving range, race track or amusement park.
- F. Public and quasi-public halls, lodges and clubs.
- G. Limited personal service establishments in the home, such as beauticians, masseurs, etc.
- H. Disc antenna for commercial use.
- I. Nonconforming use or structure changes required by Section 18.68.090.
- J. Temporary uses.
- K. Wireless Communication Facilities when attached to existing structures and authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008)

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SECTION 18.22.040 R-1-3.5, General Regulations.

- A. Minimum Lot Area. The minimum lot area shall be five thousand (5,000) square feet, except that a lot three thousand five hundred (3,500) square feet or larger may be created when the lot contains an existing single-family residence which meets setback, density, and lot coverage requirements. Variances under this Section are subject to Type I procedures.
- B. Minimum Lot Width. The minimum lot width shall be fifty (50) feet.
- C. Lot Depth. All lots shall have a minimum depth of eighty (80) feet. No lot depth shall be more than two and one-half ($2\frac{1}{2}$) times its width.
- D. Standard Yard Requirements. Front yard, twenty (20) feet; side yards, six (6) feet; rear yard, ten (10) feet plus ten (10) feet for each story in excess of one (1) story. In addition, the setbacks must comply with Section 18.70 which provides for solar access. The side yard of a corner lot abutting a public street shall have a ten (10) foot setback.
- E. Special Yards--Distances Between Buildings.
 - 1. The distance between any principal building and an accessory building shall be a minimum of ten (10) feet.
 - 2. An inner court providing access to a double-row dwelling group shall be a minimum of twenty (20) feet.
 - 3. The distance between principal buildings shall be at least one-half ($\frac{1}{2}$) the sum of the height of both buildings; provided, however, that in no case shall the distance be less than twelve (12) feet.
- F. Maximum Height. No structure shall be over thirty-five (35) feet or two and one-half ($2\frac{1}{2}$) stories in height, whichever is less.
- G. Maximum Coverage. Maximum lot coverage shall be fifty-five (55%) percent.

(Ord. 2228, 1982)

(ORD 2951, amended, 07/01/2008)

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CHAPTER 18.24

R-2 LOW DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT

SECTIONS:

- 18.24.010 Purpose.**
- 18.24.020 Permitted Uses.**
- 18.24.030 R-2, Conditional Uses.**
- 18.24.040 R-2, General Regulations.**
- 18.24.041 Appendix A.**

SECTION 18.24.010 Purpose.

This district is designed to provide an environment suitable for urban living. The R-2 district is intended for residential uses and appurtenant community services. This district is designed in such a manner that it can be applied to a wide range of areas due to the range of residential densities possible. In addition, when appropriately located and designed, professional offices and small home-oriented commercial activities designed to attract pedestrians in the Railroad District are allowed.

SECTION 18.24.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Single-family dwellings and two-family dwellings, utilizing at least two of the following design features to provide visual relief along the front of the residence:
 - 1. Dormers
 - 2. Gables
 - 3. Recessed entries
 - 4. Covered porch entries
 - 5. Cupolas
 - 6. Pillars or posts
 - 7. Bay window (min. 12" projection)
 - 8. Eaves (min. 6" projection)
 - 9. Off-sets in building face or roof (min. 16").
(Ord. 2612 S4, 1991)
- B. Multi-family dwellings.
- C. Boarding or rooming houses, fraternity or sorority houses and dormitories.
- D. Home occupations.
- E. Agriculture.
- F. Public schools, parks and recreation facilities.
- G. Nursery schools, kindergarten and day nurseries.
- H. Residential planned unit developments when authorized in accordance with Chapter 18.88 on Planned Unit Developments.
- I. Manufactured homes on individual lots, subject to the following criteria:
 - 1. The portion of the lot on which the manufactured home is to be located shall not exceed a slope of 10% prior to excavation or fill on the parcel.
 - 2. The manufactured home shall be multi-sectional, no less than 28 feet in width, and have a minimum enclosed floor area of 1,000 sq. ft.

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3. The manufactured home shall have a roof pitch of a minimum of 14 degrees (3 feet in height for each 12 feet in width).
4. The manufactured home shall have no metal siding or roofing, and shall have wood or wood-product siding and composition roofing, or approved equivalent.
5. The manufactured home shall have an auxiliary storage building or garage at least 14 x 20 feet in area, constructed of similar materials as that used on the exterior of the manufactured home.
6. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code.
7. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918.
8. The foundation area of the manufactured home shall be fully skirted.
9. The manufactured home shall not be located in the Ashland Historic Interest Area, as defined in the Comprehensive Plan.
10. The manufactured home shall incorporate at least two of the design features listed in 18.20.020 A. above.
(Ord. 2612 S5 1991)
- J. Construction of new Condominiums, in accord with all density and site review requirements of this code.
(Ord. 2624 S2, 1991)
- K. Conversion of existing multi-family rental units, into for-purchase housing when authorized in accordance with Chapter 18.24.040 (L).
(Ord 2942, amended, 10/02/2007)

SECTION 18.24.030 R-2, Conditional Uses

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on conditional use permits:

- A. Churches and similar religious institutions.
- B. Parochial and private schools, business, dancing, trade, technical, or similar schools.
- C. Manufactured housing developments subject to Chapter 18.84.
- D. Public and quasi-public halls, lodges and clubs.
- E. Professional offices or clinics for an accountant, architect, attorney, dentist, designer, doctor or other practitioner of the healing arts, engineer, insurance agent or adjuster, investment or management counselor or surveyor.
- F. Hospitals, rest, nursing and convalescent homes.
- G. Limited personal service establishments in the home, such as beauticians, masseurs and the uses listed in subsection E above.
- H. Wholesale plant nurseries, including accessory structures.
- I. Retail commercial uses located in a dwelling unit within the Railroad Historic District approved by the City Council. Such business shall be no greater than six hundred (600) sq. ft. in total area, including all storage and accessory uses, and shall be operated only by the occupant of the dwelling unit uses, and the equivalent of one (1) half (½) time employee (up to twenty-five (25) hours per week). Such use shall be designed to serve primarily pedestrian traffic, and shall be located on a street having a fully improved sidewalk on at least the side occupied by the business. The street shall be a fully improved street of residential City standards or greater.

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J. (Ord. 2624 S2, 1991; deleted Ord. 2942 S2, 2007)

K. Traveler' s accommodations, subject to the following:

1. That all residences used for travelers accommodation be business-owner occupied. The business-owner shall be required to reside on the property occupied by the accommodation, and occupancy shall be determined as the travelers accommodation location being the primary residence of the owner during operation of the accommodation. "Business-owner" shall be defined as a person or persons who own the property and accommodation outright; or who have entered into a lease agreement with the property owner(s) allowing for the operation of the accommodation. Such lease agreement to specifically state that the property owner is not involved in the day to day operation or financial management of the accommodation, and that the business-owner is wholly responsible for all operations associated with the accommodation, and has actual ownership of the business.
(ORD 2806 S1, 1997)
2. That each accommodation unit shall have 1 off-street parking space, and the owners shall have 2 parking spaces. All spaces shall be in conformance with the requirements of the Off-Street Parking section of this Title.
3. That only one ground or wall sign, constructed of a non-plastic material, non-interior illuminated of 6 sq. ft. maximum size be allowed. Any exterior illumination of signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the traveler's accommodation in violation of 18.72.110.
4. That the number of accommodation units allowed shall be determined by the following criteria:
 - a. That the total number of units, including the owner's unit, shall be determined by dividing the total square footage of the lot by 1800 sq. ft. Contiguous lots under the same ownership may be combined to increase lot area and the number of units, but not in excess of the maximum established by this ordinance. The maximum number of accommodation units shall not exceed 9 per approved travelers accommodation with primary lot frontage on arterial streets. The maximum number of units shall be 7 per approved travelers accommodation with primary lot frontage on designated collector streets; or for traveler's accommodations not having primary frontage on an arterial and within 200 feet of an arterial. Street designations shall be as determined by the Ashland Comprehensive Plan. Distances shall be measured via public street or alley access to the site from the collector or arterial.
 - b. Excluding the business-owner's unit and the area of the structure it will occupy, there must be at least 400 sq. ft. of gross interior floor space remaining per unit.
5. That the primary residence on the site be at least 20 years old. The primary residence may be altered and adapted for traveler's accommodation use, including expansion of floor area. Additional structures may be allowed to accommodate additional units, but must be in conformance with all setbacks and lot coverages of the underlying zone.
6. Transfer of business-ownership of a traveler's accommodation shall be subject to all requirements of this section-and conformance with the criteria of this section. All traveler' s accommodations receiving their initial approvals prior to the effective date of this ordinance shall be considered as approved, conforming uses, with all previous approvals, conditions and requirements remaining in effect upon change of business-ownership. Any further modifications beyond the existing approvals shall be in conformance with all requirements of this section.
7. An annual inspection by the Jackson County Health Department shall be conducted as required by the laws of Jackson County or the State of Oregon.

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8. That the property on which the traveler's accommodation is operated is located within 200 feet of a collector or arterial street as designated in the City's Comprehensive Plan. Distances shall be measured via public street or alley access to the site from the collector or arterial.
- L. Hostels
- M. Disc antenna for commercial use.
- N. Nonconforming use or structure changes required by Section 18.68.090.
- O. New structures and additions to existing structures within a designated Historic District which exceeds the Maximum Permitted Floor Area (MPFA), subject to the general regulations set forth in Section 18.24.040.
- P. Temporary uses.
- Q. Wireless Communication Facilities when attached to existing structures and authorized pursuant to Section 18.72.180.
(ORD 2951, amended, 07/01/2008; Ord 2942, amended, 10/02/2007)

SECTION 18.24.040 R-2, General Regulations.

A. Permitted Density and Minimum Lot Dimensions.

1. Base Densities and Minimum Lot Dimensions. The density of the development, including the density gained through bonus points, shall not exceed the density established by this section. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. The minimum density shall be 80% of the calculated base density. Fractional portions of the answer shall not apply towards the total density. Base density for the R-2 zone shall be 13.5 dwelling units per acre, in addition to the following standards and exceptions:
 - a. An accessory residential unit is not required to meet density or minimum lot area requirements, provided the unit is not greater than fifty percent (50%) of the gross habitable floor area of the single family residence on the lot and does not exceed 500 square feet of gross habitable floor area.
 - b. Units not considered as an accessory residential unit and less than 500 square feet of gross habitable area shall count as 0.75 units for the purposes of density calculations.
 - c. Minimum lot area for less than 2 units shall be 5000 sq. ft. with a minimum width of 50' and minimum depth of 80'.
 - d. Minimum lot area for 2 units shall be 7,000 sq. ft. with a minimum width of 50' and a minimum depth of 80'.
 - e. Developments of 3 units or greater shall have minimum lot area in excess of 9000 sq. ft. except as determined by the base density and allowable bonus point calculations, and shall have a minimum width of 50' and a minimum depth of 80'.
2. Exceptions to minimum density standards. The following lots are totally or partially exempt from the 80% minimum base density standard of Subsection 1.
 - a. Lots less than 10,000 sq. ft. in existence prior to the effective date of this ordinance.
 - b. Lots located within any Historic District designated within the Ashland Municipal Code.
 - c. lots with existing, or proposed, conditional uses may be exempt for that portion of the property that is subject to the conditional use for calculations of the minimum base density standard.
 - d. If a lot is occupied by a single family residence as of the effective date of this ordinance, the single family residence may be enlarged or reconstructed without being subject to the 80% minimum base density standard.

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- e. In the event that a fire or natural hazard destroys a single family residence, such residence may be replaced without being subject to the 80% minimum base density standard.
- f. Where floodplains, streams, land drainages, wetlands, and or steep slopes exist upon the lot an exception to minimum density requirements may be obtained to better meet the standards of Chapter 18.62 Physical and Environmental Constraints.
- g. A lot that is nonconforming in minimum density may not move further out of conformance with the minimum density standard. However, units may be added to the lot which bring the lot closer to conformance without coming all the way into conformance provided it is demonstrated that the minimum density will not be precluded.

B. Bonus Point Calculations.

- 1. The permitted base density shall be increased by the percentage gained through bonus points.
- 2. The maximum bonus permitted shall be 40%.
- 3. The following bonuses shall be awarded:
 - a. Conservation housing – 100% of the homes or residential units approved for development, after bonus point calculations, shall meet the minimum requirements for certification as an Earth Advantage home, as approved by the Ashland Conservation Division under the City’ s Earth Advantage program as adopted by resolution 2006-06 maximum 15% bonus.
(Ord 2923, S1 2006)
 - b. Provision of outdoor recreation space above minimum requirement established by this Title. The purpose of the density bonus for outdoor recreational space is to permit areas which could otherwise be developed to be developed as a recreational amenity. It is not the purpose of this provision to permit density bonuses for incidental open spaces which have no realistic use by project residents on a day to day basis. One percent increased density bonus for each percent of the project dedicated to outdoor recreation space beyond the minimum requirement established by this title--maximum 10% bonus.
 - c. Provision of Major Recreational Facilities. Density bonus points shall be awarded for the provision of major recreational facilities, such as tennis courts, swimming pools, playgrounds, or similar facilities. For each (1%) of the total project cost devoted to recreational facilities, a 6% density bonus shall be awarded to a maximum of 10%. Total project cost shall be defined as the estimated sale price or value of each residential unit times the total number of units in the project. Estimated value shall include the total market value for the structure and land. The cost of the recreational facility shall be prepared by a qualified architect or engineer using current costs of recreational facilities--maximum bonus 10%.
 - d. Affordable Housing - for every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed. Maximum bonus of 25%. Affordable housing bonus shall be for residential units that are affordable for moderate income persons in accord with the standards established by resolution of the City Council and guaranteed affordable through procedures contained in said resolution
(Ord. 2630 SI, 1991)

- C. Lot Depth:** All lots shall have a minimum depth of eighty (80) feet. No lot depth shall be more than two and one-half (2 ½) times its width.

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- D. **Standard Yard Requirements - Outside the Historic Interest Area:** Front yards shall be a minimum of 15 feet excluding garages. Unenclosed porches shall be permitted with a minimum setback of 10' from the front property line. All garages accessed from the front shall have a minimum setback of 20' from the front property line; side yards, six feet; the side yard of a corner lot abutting a public street shall have a ten foot setback; rear yard, ten feet plus ten feet for each story in excess of one story. In addition, the setbacks must comply with Chapter 18.70 which provides for Solar Access."

Standard Yard Requirements - Within the Historic Interest Area: Front yard, twenty feet; side yards, six feet; rear yard, ten feet plus ten feet for each story in excess of one story. The side yard of a corner lot abutting a public street shall be ten. In addition, the setbacks must comply with Section 18.70 of this Title which provides for solar access.

(amended Ord. 2752, 1995; Ord. 2760, 1995)

E. **Special Yards - Distance Between Buildings:**

1. The distance between any principal building and accessory building shall be a minimum of ten (10) feet.
2. An inner court providing access to a double-row dwelling group shall be a minimum of twenty (20) feet.
3. The distance between principal buildings shall be at least one-half ($\frac{1}{2}$) the sum of the height of both buildings; provided, however, that in no case shall the distance be less than twelve (12) feet. This requirement shall also apply to portions of the same buildings separated from each other by a court or other open space.

- F. **Maximum Height:** No structure shall be over thirty-five 35 feet or two and one-half ($2\frac{1}{2}$) stories in height, whichever is less. Structures within the Historic District shall not exceed a height of 30 feet.

- G. **Maximum Coverage:** Maximum lot coverage shall be sixty-five (65%) percent.

- H. **Outdoor Recreation Space:** At least 8% of the lot area shall be dedicated to outdoor recreational space and shall be part of the overall landscaping requirements.

(Ord. 2228, 1982; Ord. 2630 S2, 1991)

- I. **Maximum Permitted Floor Area for single family dwellings on individual lots within the Historic District.** The maximum permitted floor area for single family primary dwellings on individual lots within an Historic District shall be determined by the following:

1. The maximum permitted floor area shall include the total floor space of all floors (gross floor area) of the primary dwelling measured to the outside surfaces of the building, including but not limited to exterior walls, potential living spaces within the structure with at least 7' of head room and attached garages. The floor area shall not include basements, detached garages, detached accessory structures, or detached accessory residential units. Detached garages, accessory structures, or accessory residential units shall be separated from other structures by a minimum of 6', except that unenclosed breezeways or similar open structures may connect the structures.
2. The following formula shall be used to calculate the Maximum Permitted Floor Area (MPFA), provided however, that regardless of lot size, the MPFA shall not exceed 3,249 sq. ft.

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$$\frac{\text{Lot area} \times \text{Adj. Factor}}{\text{Table 1}} = \frac{\text{Adjusted lot area} \times 0.38 \text{ FAR}}{\text{Table 2}} = \text{MPFA}$$

TABLE 1 - Adjustment Factor Table

Lot Area	Adj. Factor	Lot Area	Adj. Factor	Lot Area	Adj. Factor	Lot Area	Adj. Factor
0-2500	1.20	6501 - 7000	0.88	11001 - 11500	0.66	15501 - 16000	0.55
2501 - 3000	1.16	7001 - 7500	0.85	11501 - 12000	0.64	16001 - 16500	0.54
3001 - 3500	1.12	7501 - 8000	0.82	12001 - 12500	0.62	16501 - 17000	0.53
3501 - 4000	1.08	8001 - 8500	0.79	12501 - 13000	0.61	17001 - 17500	0.52
4001 - 4500	1.04	8501 - 9000	0.77	13001 - 13500	0.60	17501 - 18000	0.51
4501 - 5000	1.00	9001 - 9500	0.75	13501 - 14000	0.59	18001 - 18500	0.50
5001 - 5500	0.97	9501 - 10000	0.73	14001 - 14500	0.58	18501 - 19000	0.49
5501 - 6000	0.94	10001 - 10500	0.71	14501 - 15000	0.57	19001 - 19500	0.48
6001 - 6500	0.91	10501 - 11000	0.68	15001 - 15500	0.56	19500 and greater	0.47

J. Maximum Permitted Floor Area for multiple dwellings on a single lot and new residential construction in Performance Standards Options land divisions created within an Historic District. The MPFA shall be determined by the following:

1. The MPFA shall include the total floor space of all floors (gross floor area) of the dwelling units measured to the outside surfaces of the building(s), including but not limited to exterior walls, potential living spaces within the structure with at least 7' of head room and attached garages. The floor area shall not include basements, detached garages, detached accessory structures, or detached accessory residential units. Detached garages, accessory structures, or accessory residential units shall be separated from other structures by a minimum of 6', except that unenclosed breezeways or similar open structures may connect the structures.
2. The following formula shall be used to calculate the Maximum Permitted Floor Area (MPFA):

$$\frac{\text{Lot area} \times \text{Adj. Factor}}{\text{Table 1}} = \frac{\text{Adjusted lot area} \times \text{Graduated FAR}}{\text{Table 2}} = \text{MPFA}$$

Table 2 - Graduated FAR Table

# units	FAR	# units	FAR	# units	FAR
1	.38	5	.46	9	.54
2	.40	6	.48	10	.56
3	.42	7	.50	11	.58
4	.44	8	.52	>11	.60

K. New structures and additions to existing structures within the Historic District shall not exceed the MPFA unless a Conditional Use Permit is obtained. In no case shall the permitted floor area exceed 25% of the MPFA. In addition to the findings for a Conditional Use Permit, the standards noted in Section IV of the Site Design and Use Standards shall be considered in the request."

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L. Conversion of existing multi-family dwelling rental units into for-purchase housing including the demolition of existing multi-family dwelling rental units, is subject to the following:

1. Existing multi-family rental unit structures may be allowed to convert all or a portion of the structure as set forth in Table 1 provided that the existing structure meets the following general regulations of the zoning district: permitted density, yard requirements, maximum height, maximum lot coverage, outdoor recreation space, maximum permitted floor area, waste enclosures, parking and bike storage.

Table 1				
Number of Dwelling Units on Tax Lot	Market Rate Ownership	Affordable Ownership (per Section 18.24.040.L.5.B)	Market Rate Rentals	Affordable Rentals (per Section 18.24.040.L.5.A)
2-4	100%	0%	0%	0%
5-12	75%	0%	25%	0%
13-24	50%	0%	50%	0%
25-48	25%	0%	75%	0%
49+	0%	0%	100%	0%

2. Existing multi-family rental unit structures may be allowed to convert all or a portion of the structure as set forth in Table 2 and the standards below when the existing structure does not meet any one or more of the following general regulations of the zoning district: permitted density, yard requirements, maximum height, maximum lot coverage, outdoor recreation space, and maximum permitted floor area.
 - a. Conversion of an existing multi-family structures to for-purchase housing shall comply with the following general regulations and the site design and use standards of the zoning district: number of bike and automobile parking spaces, trash and recycling enclosures.
 - b. Conversion of existing multi-family structures to for-purchase housing shall demonstrate that there are adequate public facilities and public services available to serve the development, including but not limited to water, sewer, electric, fire protection, and storm drainage.
 - c. Conversion of existing multi-family structures to for-purchase housing shall improve the street frontage to meet adopted Ashland Site Design and Use Standards and Street Design Standards, including landscaping, sidewalks and street trees.

Table 2:				
Number of Dwelling Units on Tax Lot	Market Rate Ownership	Affordable Ownership (per Section 18.24.040.L.5.B)	Market Rate Rentals	Affordable Rentals (per Section 18.24.040.L.5.A)
2-4	75%	25%	0%	0%
5-12	56.25%	0%	25%	18.75%
13-24	37.50%	0%	50%	12.50%
25-48	18.75%	0%	75%	6.25%
48+	0.00%	0%	100%	0%

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3. As an incentive to provide affordable rental housing units above minimum requirements in projects of five or more units, an applicant shall be granted an equal percentage of for-market ownership units per Table 3.

Table 3:				
Number of Dwelling Units on Tax Lot	Market Rate Ownership	Affordable Ownership (per Section 18.24.040.L.5.B)	Market Rate Rentals	Affordable Rentals (per Section 18.24.040.L.5.A)
2-4	na	na	na	na
5-12	68.75%	na	0%	31.25%
13-24	62.50%	na	0%	37.50%
25-48	56.25%	na	0%	43.75%
48+	50.00%	na	0%	50.00%

4. Units designated as market rate or affordable rental units shall be retained as one condominium tract under one ownership. This remaining rental tract shall be restricted from further consideration of conversion to for-purchase housing.
5. Affordable Housing Units provided under 18.24.040 L(2) and 18.24.040 L(3) shall meet the following affordability standards:
- a. Affordable Rental Units shall be affordable for rent by households earning at or below 60% of the area median income in accordance with the standards established by Resolution 2006-13.
 - b. Affordable Ownership Units shall be affordable for purchase by households earning at or below 80% of the area median income in accordance with the standards established by Resolution 2006-13. Resolution 2006-13 is specifically incorporated herein by this reference and attached hereto as Appendix A.
6. Prior to offering any units for sale the developer must comply with section 15.104 of the Ashland Municipal Code.
7. Conversion of existing rental units into for-purchase housing shall comply with the tenant rights provisions under Chapter 10.115 of the Ashland Municipal Code.
8. For the purposes of sections 18.24.020 and 18.24.040 existing multi-family rental units are defined as dwelling units designed to house multiple households within one or more structures on a single property that were constructed and occupied prior to the effective date of this ordinance. Multi-family rental units constructed after the effective date of this ordinance are not subject to the provisions of Chapter 18.24.040 (L).

(ORD 2951, amended, 07/01/2008; Ord 2942, amended, 10/02/2007; ORD 2923, Amended, 02/07/2006; Ord 2914, Amended, 12/07/2004; Ord 2901, Amended, 09/16/2003)

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SECTION 18.24.041 Appendix A

RESOLUTION NO. 2006-13

A RESOLUTION AMENDING AND RESOLUTION 2005-46

RECITALS:

- A. WHEREAS, in 1993, the City of Ashland passed Resolution no. 1993-39 which established affordable housing income levels and rental and purchased cost levels.
- B. WHEREAS, in 2005, the City of Ashland passed Resolution 2005-46 which required provisions for homeowner and maintenance fees to be included in the affordability calculations for its affordable housing program.
- C. WHEREAS, neither resolution contained provisions establishing rent levels or purchase price levels for households earning 60%, 80% 100% or 120% of the area median income (AMI).
- D. WHEREAS, neither resolution required Principal, Interest, Taxes and Insurance (PITI) to be included in the maximum housing costs of eligible households in the affordability calculations for the purchasing part of its affordable housing program.
- E. WHEREAS both resolutions used “not-to-exceed purchase price” as a qualifying criterion for purchasing housing units, which criterion requires annual revision, and the current resolution seeks to replace the “not-to-exceed purchase price” with a “percent of household income” criterion which does not require annual revision.
- F. WHEREAS, the City considers that a range of qualifying incomes maximizes the potential for success of its affordable housing program.
- G. WHEREAS, the City desires that PITI be included in the affordability calculations for the various income levels of qualified households and that the “percent of household income” criterion be used in place of the “not-to-exceed purchase price” criterion.

NOW THEREFORE, THE CITY OF ASHLAND RESOLVES AS FOLLOWS:

Resolutions 1993-39 and 2005-46 are hereby amended in their entirety as follows:

SECTION 1. GENERAL ELIGIBILITY – RENTAL AND PURCHASED HOUSING

- 1.1 All qualifying ownership or rental units required to be affordable through density bonuses, annexation, zone change, condominium conversion, or other land use approval under the Ashland Land Use Ordinance (ALUO) shall not be eligible to receive a waiver of the Community Development and Engineering Services fees associated with the development of said affordable units unless a waiver is approved by the Ashland City Council.
- 1.2 All qualifying ownership or rental units required to be affordable through density bonuses, annexation, zone change, condominium conversion, or other land use approval under the ALUO shall be eligible to receive a deferral of the System Development Charges associated with the development of said affordable units.

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- 1.3 All qualifying ownership or rental units voluntarily provided as affordable to low income households, consistent with section 1.1 and 1.2, above, shall be eligible for a System Development Charge, Engineering Service, and Community Development Fee deferral or waiver without obtaining approval from the Ashland City Council.
- 1.4 Affordable Housing Units covered under this Resolution can only be sold or rented to occupant households from the same income category as the original purchasers or renters for a period of not less than 30 years, or as required through the condition of approval for a unit required to be affordable through a land use approval.
- 1.5 System Development Charges, Engineering Services, and Community Development Fees may be deferred or waived when units are sold or rented to low-income persons. For purposes of this subsection, "low-income persons" means:
- a. With regard to rental housing, persons with an income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development; and
 - b. With regard to home ownership housing and lease to purchase home ownership housing, persons with an income at or below 80 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

SECTION 2. RENTAL HOUSING - Units designated for affordable rental housing in developments which have qualified for density bonuses, annexation, zone change, condominium conversion, or other land use approval under the ALUO shall be rented to individuals or households whose annual income is consistent with the target income identified in the planning approval. Incomes shall be qualified at the 60% or 80% median income levels for households in the Medford-Ashland Metropolitan Statistical Area (MSA). This figure shall be known as the "qualifying household income" and shall be determined by the City's Department of Community Development in May of each year from the annual family incomes published by the U.S. Department of Housing and Urban Development (HUD) for the Medford-Ashland Metropolitan Service Area (MSA).

- 2.1 **Area Median Income – 80%.** The rent charged for such affordable rental housing benefiting households earning 80% Area Median Income or greater, including any home-owners association or maintenance fees, shall not exceed 23% of the qualifying monthly income (qualifying family income divided by twelve) as provided in the following formulas:

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Studio Apartment	23% of the average of 1 & 2 person qualifying monthly incomes
1 Bedroom	23% of the average of 2 & 3 person qualifying monthly incomes
2 Bedroom	23% of the average of 3, 4, & 5 person qualifying monthly incomes
3 Bedroom	23% of the average of 4, 5, 6, & 7 person qualifying monthly incomes
4 Bedroom	23% of the average of 5, 6, 7, & 8 person qualifying monthly incomes

The City's Department of Community Development shall maintain a table of maximum rent levels permitted under these formulas and shall annually update the table in May of each year.

- 2.2 **Area Median Income – 60% or lower.** The rent charged for such affordable rental housing benefiting households earning 60% Area Median Income or less, including any home-owners association or maintenance fees, shall comply with the maximum rents established by the State of Oregon HOME Program based on the target income qualification as adjusted annually by the Department of Housing and Urban Development for the Medford-Ashland Metropolitan Service Area. The HOME program indexed allowable rents are adjusted annually by the State of Oregon Housing and Community Services Department (OHCS).
- 2.3. **Owner's Obligation.** The owner of the affordable rental housing shall sign a 30-year agreement, or longer depending on the period of affordability established through the ALUO, with the City of Ashland that guarantees these rent levels will not be exceeded and that the owner will rent only to households meeting the income limits. The agreement shall bind subsequent owners who purchase the rental housing during the established period of affordability. The agreement shall also require the owner to allow the unit to be rented to HUD Section 8 qualified applicants and agree to accept rent vouchers for all of the affordable units when applicable. The City shall file the agreement for recordation in the County Clerk deed records, Jackson County, Oregon.
- 2.3.1. **Certification of qualifying occupants.** The owner of record, or the designated agent of the record, owner, shall annually file with the City of Ashland a signed certificate stating the occupants of the record owner's rental housing units continue to be qualified households, or are a household that qualified at its initial occupancy, within the meaning of this Resolution, and any amendment made to it. The City of Ashland shall provide the record owner or the record owner's agent with access to a form to complete and sign to comply with this provision.

SECTION 3. PURCHASED HOUSES - QUALIFYING. Units designated for affordable housing available for purchase in developments which have qualified for density bonuses annexation, zone change, condominium conversion, or other land use approval under the ALUO must satisfy two criteria.

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1. They shall only be sold to occupant households whose:

a. Annual income is consistent with the target income identified in the planning approval for the development. Incomes shall be qualified at the applicable 60%, 80%, 100% or 120% median income levels for households based on number of people per household as adjusted annually by the Department of Housing and Urban Development for the Medford-Ashland Metropolitan Service Area.

i. The maximum monthly payment for a covered unit shall be established to not exceed the affordability limits, established above, indicated in following table:

Studio	=	1 person household income for the designated income level
1 Bedroom	=	2 person household income for the designated income level
2 Bedroom	=	4 person household income for the designated income level
3 Bedroom	=	6 person household income for the designated income level
4 Bedroom	=	7 person household income for the designated income level
Households with a greater or lesser number of occupants shall remain eligible for covered units but the sale price shall not be adjusted due to household size above the limits established above.		

b. Net assets, excluding pension plans and IRA's and excluding the down payment and closing costs, do not exceed \$20,000 for a household or \$130,000 if one household member is 65 years or older.

c. Mortgage payment does not exceed more than 30% of the monthly income for the target income level indicated in 3.1(a)(i) on total housing costs which includes PITI and any homeowners or regular maintenance fees.

d. The maximum monthly payment for a covered unit shall be calculated by utilizing the interest rate for the Oregon Bond Loan Rate Advantage as updated by the State of Oregon Housing and Community Services Department.

2. They shall remain affordable as follows:

a. The purchasers of the affordable housing units shall agree to the City of Ashland Affordable Housing Resale Restriction Agreement establishing a period of affordability of not less than 30 years. In no event will a purchaser be required to sell the unit subject to the aforementioned Agreement for less than his or her original purchase price, plus any applicable closing costs and realtor fees.

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- b. For housing financed by Farmer' s Home Administration (FmHA), the affordability shall be assured by the FmHA' s recapture provisions FmHA which require sellers to repay FmHA for all the subsidies accrued during the period the sellers resided in the housing unit.

SECTION 2. EFFECTIVE DATE. This Resolution takes effect upon signing by the Mayor.

This resolution was read by title only in accordance with Ashland Municipal Code §2.04.090 duly PASSED and ADOPTED this 20 day of June, 2006.

Barbara Christensen, City Recorder
(Signature on File)

Alex Amarotico, Council Chair
(Signature on File)

(Ord 2942, amended, 10/02/2007)

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CHAPTER 18.28

R-3 HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL DISTRICT

SECTIONS:

18.28.010	Purpose.
18.28.020	Permitted Uses.
18.28.030	Conditional Uses.
18.28.040	General Regulations.
18.28.041	Appendix A.

SECTION 18.28.010 Purpose.

This district is designed to provide the type of environment suitable for urban living. The R-3 district is intended for residential uses and appurtenant community services. This district is designed in such a manner that it can be applied to a wide range of areas due to the range of residential densities possible. In addition, when appropriately located and designed, professional offices are allowed.

SECTION 18.28.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Single-family dwellings and two-family dwellings, utilizing at least two of the following design features to provide visual relief along the front of the residence:
 - 1. Dormers
 - 2. Gables
 - 3. Recessed entries
 - 4. Covered porch entries
 - 5. Cupolas
 - 6. Pillars or posts
 - 7. Bay window (min. 12" projection)
 - 8. Eaves (min. 6" projection)
 - 9. Off-sets in building face or roof (min. 16").
(Ord. 2612 S4, 1991)
- B. Multi-family dwellings.
- C. Boarding or rooming houses, fraternity or sorority houses, and dormitories.
- D. Home occupations.
- E. Agriculture.
- F. Public schools, parks and recreation facilities.
- G. Nursery schools, kindergarten and day nurseries.
- H. Residential planned unit developments when authorized in accordance with the Chapter on Planned Unit Developments.
- I. Manufactured homes on individual lots, subject to the following criteria:
 - 1. The portion of the lot on which the manufactured home is to be located shall not exceed a slope of 10% prior to excavation or fill on the parcel.
 - 2. The manufactured home shall be multi-sectional, no less than 28 ft. in width, and have a minimum enclosed floor area of 1,000sq.ft.
 - 3. The manufactured home shall have a roof pitch of a minimum of 14 degrees (3 feet in height for each 12 feet in width).

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4. The manufactured home shall have no metal siding or roofing, and shall have wood or wood-product siding and composition roofing, or approved equivalent.
 5. The manufactured home shall have an auxiliary storage building or garage at least 14 x 20 feet in area, constructed of similar materials as that used on the exterior of the manufactured home.
 6. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code.
 7. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade, and complying with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, Chapter 918.
 8. The foundation area of the manufactured home shall be fully skirted.
 9. The manufactured home shall not be located in the Ashland Historic Interest Area, as defined in the Comprehensive Plan.
 10. The manufactured home shall incorporate at least two of the design features listed in 18.20.020 A. above.
(Ord. 2612 S5 1991)
- J. Construction of new condominiums, in accord with all density and site review requirements of this code.
(Ord. 2624 S3, 1991)
- K. Conversion of existing rental units into for-purchase housing when authorized in accordance with Chapter 18.28.040 (L).
(Ord 2942, amended, 10/02/2007)

SECTION 18.28.030 Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with the Chapter on Conditional Use Permits:

- A. Churches and similar religious institutions.
- B. Parochial and private schools, business, dancing, trade, technical or similar schools.
- C. Manufactured housing developments, subject to Chapter 18.84.
- D. Public and quasi-public halls, lodges and clubs.
- E. Professional offices or clinics for an accountant, architect, attorney, dentist, designer, doctor, or other practitioner of the healing arts, engineer, insurance agent or adjuster, investment or management counselor or surveyor.
- F. Hospitals, rest, nursing and convalescent homes.
- G. Limited personal service establishments in the home, such as beauticians, masseurs, and the uses listed in subsection E above.
- H. Wholesale plant nurseries, including accessory structures.
- I. (Ord. 2624 S3, 1991; DELETED Ord 2942 S5:2007)
- J. Travelers accommodations, subject to the following:
 1. That all residences used for travelers accommodation be business-owner occupied. The business-owner shall be required to reside on the property occupied by the accommodation, and occupancy shall be determined as the travelers accommodation location being the primary residence of the owner during operation of the accommodation. "Business-owner" shall be defined as a person or persons who own the property and accommodation outright; or who have entered into a lease agreement with the property owner(s) allowing for the operation of the accommodation. Such lease agreement to specifically state that the property owner is not involved in the day to day

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operation or financial management of the accommodation, and that the business-owner is wholly responsible for all operations associated with the accommodation, and has actual ownership of the business.

(ORD 2806 S2, 1997)

2. That each accommodation unit shall have 1 off-street parking space, and the owners shall have 2 parking spaces. All spaces shall be in conformance with the requirements of the Off-Street Parking section of this Title.
 3. That only one ground or wall sign, constructed of a non-plastic material, non-interior illuminated of 6 sq. ft. maximum size be allowed. Any exterior illumination of signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the travelers' s accommodation in violation of 18.72.110.
 4. That the number of accommodation units allowed shall be determined by the following criteria:
 - a. That the total number of units, including the owner's unit, shall be determined by dividing the total square footage of the lot by 1800 sq. ft. Contiguous lots under the same ownership may be combined to increase lot area and the number of units, but not in excess of the maximum established by this ordinance. The maximum number of accommodation units shall not exceed 9 per approved traveler's accommodation with primary lot frontage on arterial streets. The maximum number of units shall be 7 per approved travelers accommodation with primary lot frontage on designated collector streets; or for traveler's accommodations not having primary frontage on an arterial and within 200 feet of an arterial. Street designations shall be as determined by the Ashland Comprehensive Plan. Distances shall be measured via public street or alley access to the site from the collector or arterial.
 - b. Excluding the business-owner's unit and the area of the structure it will occupy, there must be at least 400 sq. ft. of gross interior floor space remaining per unit.
 5. That the primary residence on the site be at least 20 years old. The primary residence may be altered and adapted for traveler's accommodation use, including expansion of floor area. Additional structures may be allowed to accommodate additional units, but must be in conformance with all setbacks and lot coverages of the underlying zone.
 6. Transfer of business-ownership of a travelers accommodation shall be subject to all requirements of this section, and conformance with the criteria of this section. All traveler's accommodations receiving their initial approvals prior to the effective date of this ordinance shall be considered as approved, conforming uses, with all previous approvals, conditions and requirements remaining in effect upon change of business-ownership. Any further modifications beyond the existing approvals shall be in conformance with all requirements of this section.
- K. Structures in excess of thirty-five (35) feet in height, not to exceed 50 feet in height.
- L. Hostels
- M. Disc antenna for commercial use.
- N. Enlargement, extension, reconstruction, substitution, structural alteration or reactivation of nonconforming uses and structures pursuant to Section 18.68.090.
- O. New structures and additions to existing structures within a designated Historic District which exceeds the Maximum Permitted Floor Area (MPFA), subject to the general regulations set forth in Section 18.28.040.
- P. Temporary uses.
- Q. Wireless Communication Facilities when attached to existing structures and authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008; Ord 2942, amended, 10/02/2007)

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SECTION 18.28.040 General Regulations

A. Permitted Density.

1. Base Densities. The density of the development, including the density gained through bonus points, shall not exceed the density established by this section. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. The minimum density shall be 80% of the calculated base density. Fractional portions of the answer shall not apply towards the total density. Base density for the R-3 zone shall be 20.0 dwelling units per acre, however, units of less than 500 square feet of gross habitable area shall count as 0.75 units for the purposes of density calculations, with the following restrictions.
 - a. Minimum lot area for unit 1 shall be 5000 sq. ft. with a minimum width of 50' and minimum depth of 80'.
 - b. Minimum lot area for 2 units shall be 6,500 sq. ft. with a minimum width of 50' and a minimum depth of 80'.
 - c. Developments of 3 units or greater shall have minimum lot area in excess of 8000 sq. ft. and as determined by the base density and allowable bonus point calculations, and shall have a minimum width of 50' and a minimum depth of 80'.
2. Exceptions to minimum density standards. The following lots are totally or partially exempt from the 80% minimum base density standard of Subsection 1.
 - a. Lots less than 10,000sq.ft, in existence prior to the effective date of this ordinance.
 - b. Lots located within any Historic District designated within the Ashland Municipal Code.
 - c. Lots with existing, or proposed, conditional uses may be exempt for that portion of the property that is subject to the conditional use for calculations of the minimum base density standard.
 - d. If a lot is occupied by a single family residence as of the effective date of this ordinance, the single family residence may be enlarged or reconstructed without being subject to the 80% minimum base density standard.
 - e. In the event that a fire or natural hazard destroys a single family residence, such residence may be replaced without being subject to the 80% minimum base density standard.
 - f. Where floodplains, streams, land drainages, wetlands, and or steep slopes exist upon the lot an exception to minimum density requirements may be obtained to better meet the standards of Chapter 18.62 Physical and Environmental Constraints.
 - g. A lot that is nonconforming in minimum density may not move further out of conformance with the minimum density standard. However, units may be added to the lot which brings the lot closer to conformance without coming all the way into conformance provided it is demonstrated that the minimum density will not be precluded."

B. Bonus Point Calculations.

1. The permitted base density shall be increased by the percentage gained through bonus points. In no case shall the density exceed that allowed under the Comprehensive Plan.
2. The maximum bonus permitted shall be 40%.
3. The following bonuses shall be awarded:
 - a. Conservation Housing – 100% of the homes or residential units approved for development, after bonus point calculations, shall meet the minimum requirements for certification as an Earth Advantage home, as approved by the Ashland Conservation Division under the City' s Earth Advantage program as adopted by

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resolution 2006-06 maximum 15% bonus.

(Ord 2923; S2 2006)

- b. Provision of outdoor recreation space above minimum requirement established by this Title. The purpose of the density bonus for outdoor recreational space is to permit areas which could otherwise be developed to be developed as a recreational amenity. It is not the purpose of this provision to permit density bonuses for incidental open spaces which have no realistic use by project residents on a day to day basis. One percent increased density bonus for each percent of the project site dedicated to outdoor recreation space beyond the minimum requirement established by this title--maximum 10% bonus.
- c. Provision of Major Recreational Facilities. Density bonus points shall be awarded for the provision of major recreational facilities, such as tennis courts, swimming pools, playgrounds, or similar facilities. For each percent (1%) of the total project cost devoted to recreational facilities, a 6% density bonus shall be awarded to a maximum of 10%. Total project cost shall be defined as the estimated sale price or value of each residential unit times the total number of units in the project. Estimated value shall include the total market value for the structure and land. The cost of the recreational facility shall be prepared by a qualified architect or engineer using current costs of recreational facilities -- maximum bonus 10%.
- d. Affordable Housing - for every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed. Maximum bonus of 25%. Affordable housing bonus shall be for residential units that are affordable for moderate income persons in accord with the standards established by resolution of the City Council and guaranteed affordable through procedures contained in said resolution.

(Ord. 2630 S3, 1991)

C. Minimum Lot Depth: All lots shall have a minimum depth of eighty (80) feet. No lot depth shall be more than two and one-half (2 ½) times its width.

D. Standard Yard Requirements - Outside the Historic Interest Area: Front yards shall be a minimum of 15 feet excluding garages. Unenclosed porches shall be permitted with a minimum setback of 10' from the front property line. All garages accessed from the front shall have a minimum setback of 20' from the front property line; side yards, six feet; the side yard of a corner lot abutting a public street shall have a ten foot setback; rear yard, ten feet plus ten feet for each story in excess of one story. In addition, the setbacks must comply with Chapter 18.70 which provides for Solar Access."

Standard Yard Requirements - Within the Historic Interest Area: Front yard, twenty feet; side yards, six feet; rear yard, ten feet plus ten feet for each story in excess of one story. The side yard of a corner lot abutting a public street shall be ten. In addition, the setbacks must comply with Section 18.70 of this Title which provides for solar access.

(Ord. 2760, 1995)

E. Special Yards - distances between buildings:

1. The distance between any principal building and accessory building shall be a minimum of ten (10) feet.
2. An inner court providing access to a double-row dwelling group shall be a minimum of twenty (20) feet.
3. The distance between principal buildings shall be at least one-half (½) the sum of the height of both buildings; provided, however, that in no case shall the distance be less

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than twelve (12) feet. This requirement shall also apply to portions of the same buildings separated from each other by a court or other open space.

F. **Maximum height:** No structure shall be over thirty-five (35) feet in height, except as provided in Section 18.28.030(K). Structures within the Historic District shall not exceed a height of 30 feet.

G. **Maximum Coverage:** Maximum lot coverage shall be seventy-five percent (75%).
(Ord. 2228, 1982)

H. **Outdoor Recreation Space:** At least 8% of the lot area shall be dedicated to outdoor recreational space and shall be part of the overall landscaping requirements.
(Ord. 2630, 1992)

I. **Maximum Permitted Floor Area for single family dwellings on individual lots within the Historic District.** The maximum permitted floor area for single family primary dwellings on individual lots within the Historic District shall be determined by the following:

1. The maximum permitted floor area shall include the total floor space of all floors (gross floor area) of the primary dwelling measured to the outside surfaces of the building, including but not limited to exterior walls, potential living spaces within the structure with at least 7' of head room and attached garages. The floor area shall not include basements, detached garages, detached accessory structures, or detached accessory residential units. Detached garages, accessory structures, or accessory residential units shall be separated from other structures by a minimum of 6', except that unenclosed breezeways or similar open structures may connect the structures.
2. The following formula shall be used to calculate the Maximum Permitted Floor Area (MPFA), provided however, that regardless of lot size, the MPFA shall not exceed 3,249 sq. ft.:

$$\text{Lot area} \times \text{Adj. Factor} = \text{Adjusted lot area} \times 0.38 \text{ FAR} = \text{MPFA}$$

(Table 1)

TABLE 1 - Adjustment Factor Table

Lot Area	Adj. Factor	Lot Area	Adj. Factor	Lot Area	Adj. Factor	Lot Area	Adj. Factor
0-2500	1.20	6501 - 7000	0.88	11001 - 11500	0.66	15501 - 16000	0.55
2501 - 3000	1.16	7001 - 7500	0.85	11501 - 12000	0.64	16001 - 16500	0.54
3001 - 3500	1.12	7501 - 8000	0.82	12001 - 12500	0.62	16501 - 17000	0.53
3501 - 4000	1.08	8001 - 8500	0.79	12501 - 13000	0.61	17001 - 17500	0.52
4001 - 4500	1.04	8501 - 9000	0.77	13001 - 13500	0.60	17501 - 18000	0.51
4501 - 5000	1.00	9001 - 9500	0.75	13501 - 14000	0.59	18001 - 18500	0.50
5001 - 5500	0.97	9501 - 10000	0.73	14001 - 14500	0.58	18501 - 19000	0.49
5501 - 6000	0.94	10001 - 10500	0.71	14501 - 15000	0.57	19001 - 19500	0.48
6001 - 6500	0.91	10501 - 11000	0.68	15001 - 15500	0.56	19500 and greater	0.47

J. **Maximum Permitted Floor Area for multiple dwellings on a single lot within the Historic District.** The MPFA for multiple dwellings on a single lot within the Historic District shall be determined by the following:

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1. The MPFA shall include the total floor space of all floors (gross floor area) of the primary dwelling measured to the outside surfaces of the building, including but not limited to exterior walls, potential living spaces within the structure with at least 7' of head room and attached garages. The floor area shall not include basements, detached garages, detached accessory structures, or detached accessory residential units. Detached garages, accessory structures, or accessory residential units shall be separated from other structures by a minimum of 6', except that unenclosed breezeways or similar open structures may connect the structures.
2. The following formula shall be used to calculate the Maximum Permitted Floor Area (MPFA):

$$\frac{\text{Lot area} \times \text{Adj. Factor}}{\text{(Table 1)}} = \frac{\text{Adjusted lot area} \times \text{Graduated FAR}}{\text{(Table 2)}} = \text{MPFA}$$

Table 2. - Graduated FAR Table

# units	FAR	# units	FAR	# units	FAR
1	.38	5	.46	9	.54
2	.40	6	.48	10	.56
3	.42	7	.50	11	.58
4	.44	8	.52	>11	.60

- K. New structures and additions to existing within the Historic District shall not exceed the MPFA unless a Conditional Use Permit is obtained. In no case shall the permitted floor area exceed 25% of the MPFA. In addition to the findings for a Conditional Use Permit, the standards noted in Section IV of the Site Design and Use Standards shall be considered in the request.”

(ORD 2923, Amended, 02/07/2006; Ord 2914, Amended, 12/07/2004; Ord 2901, Amended, 09/16/2003)

- L. Conversion of existing multi-family dwelling rental units into for-purchase housing including the demolition of existing multi-family dwelling rental units, is subject to the following:
1. Existing multi-family rental unit structures may be allowed to convert all or a portion of the structure as set forth in Table 1 provided that the existing structure meets the following general regulations of the zoning district: permitted density, yard requirements, maximum height, maximum lot coverage, outdoor recreation space, maximum permitted floor area, waste enclosures, parking and bike storage.

Table 1				
Number of Dwelling Units on Tax Lot	Market Rate Ownership	Affordable Ownership (per Section 18.28.040.L.5.B)	Market rate rentals	Affordable Rentals (per Section 18.28.040.L.5.A)
2-4	100%	0%	0%	0%
5-12	75%	0%	25%	0%
13-24	50%	0%	50%	0%
25-48	25%	0%	75%	0%
49+	0%	0%	100%	0%

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2. Existing multi-family rental unit structures may be allowed to convert all or a portion of the structure as set forth in Table 2 and the standards below when the existing structure does not meet any one or more of the following general regulations of the zoning district: permitted density, yard requirements, maximum height, maximum lot coverage, outdoor recreation space, and maximum permitted floor area..
 - a. Conversion of an existing multi-family structures to for-purchase housing shall comply with the following general regulations and the site design and use standards of the zoning district: number of bike and automobile parking spaces, trash and recycling enclosures.
 - b. Conversion of existing multi-family structures to for-purchase housing shall demonstrate that there are adequate public facilities and public services available to serve the development, including but not limited to water, sewer, electric, fire protection, and storm drainage.
 - c. Conversion of existing multi-family structures to for-purchase housing shall improve the street frontage to meet adopted Ashland Site Design and Use Standards and Street Design Standards, including landscaping, sidewalks and street trees.

Table 2				
Number of Dwelling Units on Tax Lot	Market Rate Ownership	Affordable Ownership (per Section 18.28.040.L.5.B)	Market rate rentals	Affordable Rentals (per Section 18.28.040.L.5.A)
2-4	75%	25%	0%	0%
5-12	56.25%	0%	25%	18.75%
13-24	37.50%	0%	50%	12.50%
25-48	18.75%	0%	75%	6.25%
48+	0%	0%	100%	0.00%

3. As an incentive to provide affordable rental housing units above minimum requirements in projects of five or more units, an applicant shall be granted an equal percentage of for-market ownership units per Table 3.

Table 3:				
Number of Dwelling Units on Tax Lot	Market Rate Ownership	Affordable Ownership (per Section 18.24.080.L.5.B)	Market rate rentals	Affordable Rentals (per Section 18.28.040.L.5.A)
2-4	na	na	na	na
5-12	68.75%	na	0%	31.25%
13-24	62.50%	na	0%	37.50%
25-48	56.25%	na	0%	43.75%
48+	50.00%	na	0%	50.00%

4. Units designated as market rate or affordable rental units shall be retained as one condominium tract under one ownership. This remaining rental tract shall be restricted from further consideration of conversion to for-purchase housing.
5. Affordable Housing Units provided under 18.28.040 L(2) and 18.28.040 L(3) shall meet the following affordable standards:
 - a. Affordable Rental Units shall be affordable for rent by households earning at or

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below 60% of the area median income in accordance with the standards established by Resolution 2006-13.

- b. Affordable Ownership Units shall be affordable for purchase by households earning at or below 80% of the area median income in accordance with standards established by Resolution 2006-13 is specifically incorporated herein by this reference and attached hereto as Appendix A.
6. Prior to offering any units for sale the developer must comply with section 15.104 of the Ashland Municipal Code.
7. Conversion of existing rental units into for-purchase housing shall comply with the tenant rights provisions under Chapter 10.115 of the Ashland Municipal Code.
8. For the purposes of sections 18.28.020 and 18.28.040, existing multi-family rental units are defined as dwelling units designed to house multiple households within one or more structures on a single property that were constructed and occupied prior to the effective date of this ordinance. Multi-family rental units constructed after the effective date of this ordinance are not subject to the provisions of Chapter 18.28.040 (L).

(Ord 2942, amended, 10/02/2007; ORD 2923, Amended, 02/07/2006; Ord 2914, Amended, 12/07/2004; Ord 2901, Amended, 09/16/2003)

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SECTION 18.28.041 Appendix A

RESOLUTION NO. 2006-13

A RESOLUTION AMENDING AND RESOLUTION 2005-46

RECITALS:

- A. WHEREAS, in 1993, the City of Ashland passed Resolution no. 1993-39 which established affordable housing income levels and rental and purchased cost levels.
- B. WHEREAS, in 2005, the City of Ashland passed Resolution 2005-46 which required provisions for homeowner and maintenance fees to be included in the affordability calculations for its affordable housing program.
- C. WHEREAS, neither resolution contained provisions establishing rent levels or purchase price levels for households earning 60%, 80% 100% or 120% of the area median income (AMI).
- D. WHEREAS, neither resolution required Principal, Interest, Taxes and Insurance (PITI) to be included in the maximum housing costs of eligible households in the affordability calculations for the purchasing part of its affordable housing program.
- E. WHEREAS both resolutions used “not-to-exceed purchase price” as a qualifying criterion for purchasing housing units, which criterion requires annual revision, and the current resolution seeks to replace the “not-to-exceed purchase price” with a “percent of household income” criterion which does not require annual revision.
- F. WHEREAS, the City considers that a range of qualifying incomes maximizes the potential for success of its affordable housing program.
- G. WHEREAS, the City desires that PITI be included in the affordability calculations for the various income levels of qualified households and that the “percent of household income” criterion be used in place of the “not-to-exceed purchase price” criterion.

NOW THEREFORE, THE CITY OF ASHLAND RESOLVES AS FOLLOWS:

Resolutions 1993-39 and 2005-46 are hereby amended in their entirety as follows:

SECTION 1. GENERAL ELIGIBILITY – RENTAL AND PURCHASED HOUSING

- 1.1 All qualifying ownership or rental units required to be affordable through density bonuses, annexation, zone change, condominium conversion, or other land use approval under the Ashland Land Use Ordinance (ALUO) shall not be eligible to receive a waiver of the Community Development and Engineering Services fees associated with the development of said affordable units unless a waiver is approved by the Ashland City Council.
- 1.2 All qualifying ownership or rental units required to be affordable through density bonuses, annexation, zone change, condominium conversion, or other land use approval under the ALUO shall be eligible to receive a deferral of the System Development Charges associated with the development of said affordable units.

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- 1.3 All qualifying ownership or rental units voluntarily provided as affordable to low income households, consistent with section 1.1 and 1.2, above, shall be eligible for a System Development Charge, Engineering Service, and Community Development Fee deferral or waiver without obtaining approval from the Ashland City Council.
- 1.4 Affordable Housing Units covered under this Resolution can only be sold or rented to occupant households from the same income category as the original purchasers or renters for a period of not less than 30 years, or as required through the condition of approval for a unit required to be affordable through a land use approval.
- 1.5 System Development Charges, Engineering Services, and Community Development Fees may be deferred or waived when units are sold or rented to low-income persons. For purposes of this subsection, "low-income persons" means:
- a. With regard to rental housing, persons with an income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development; and
 - b. With regard to home ownership housing and lease to purchase home ownership housing, persons with an income at or below 80 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

SECTION 2. RENTAL HOUSING - Units designated for affordable rental housing in developments which have qualified for density bonuses, annexation, zone change, condominium conversion, or other land use approval under the ALUO shall be rented to individuals or households whose annual income is consistent with the target income identified in the planning approval. Incomes shall be qualified at the 60% or 80% median income levels for households in the Medford-Ashland Metropolitan Statistical Area (MSA). This figure shall be known as the "qualifying household income" and shall be determined by the City's Department of Community Development in May of each year from the annual family incomes published by the U.S. Department of Housing and Urban Development (HUD) for the Medford-Ashland Metropolitan Service Area (MSA).

- 2.1 **Area Median Income – 80%.** The rent charged for such affordable rental housing benefiting households earning 80% Area Median Income or greater, including any home-owners association or maintenance fees, shall not exceed 23% of the qualifying monthly income (qualifying family income divided by twelve) as provided in the following formulas:

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Studio Apartment	23% of the average of 1 & 2 person qualifying monthly incomes
1 Bedroom	23% of the average of 2 & 3 person qualifying monthly incomes
2 Bedroom	23% of the average of 3, 4, & 5 person qualifying monthly incomes
3 Bedroom	23% of the average of 4, 5, 6, & 7 person qualifying monthly incomes
4 Bedroom	23% of the average of 5, 6, 7, & 8 person qualifying monthly incomes

The City's Department of Community Development shall maintain a table of maximum rent levels permitted under these formulas and shall annually update the table in May of each year.

- 2.2 **Area Median Income – 60% or lower.** The rent charged for such affordable rental housing benefiting households earning 60% Area Median Income or less, including any home-owners association or maintenance fees, shall comply with the maximum rents established by the State of Oregon HOME Program based on the target income qualification as adjusted annually by the Department of Housing and Urban Development for the Medford-Ashland Metropolitan Service Area. The HOME program indexed allowable rents are adjusted annually by the State of Oregon Housing and Community Services Department (OHCS).
- 2.3. **Owner's Obligation.** The owner of the affordable rental housing shall sign a 30-year agreement, or longer depending on the period of affordability established through the ALUO, with the City of Ashland that guarantees these rent levels will not be exceeded and that the owner will rent only to households meeting the income limits. The agreement shall bind subsequent owners who purchase the rental housing during the established period of affordability. The agreement shall also require the owner to allow the unit to be rented to HUD Section 8 qualified applicants and agree to accept rent vouchers for all of the affordable units when applicable. The City shall file the agreement for recordation in the County Clerk deed records, Jackson County, Oregon.
- 2.3.1. **Certification of qualifying occupants.** The owner of record, or the designated agent of the record, owner, shall annually file with the City of Ashland a signed certificate stating the occupants of the record owner's rental housing units continue to be qualified households, or are a household that qualified at its initial occupancy, within the meaning of this Resolution, and any amendment made to it. The City of Ashland shall provide the record owner or the record owner's agent with access to a form to complete and sign to comply with this provision.

SECTION 3. PURCHASED HOUSES - QUALIFYING. Units designated for affordable housing available for purchase in developments which have qualified for density bonuses annexation, zone change, condominium conversion, or other land use approval under the ALUO must satisfy two criteria.

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1. They shall only be sold to occupant households whose:

a. Annual income is consistent with the target income identified in the planning approval for the development. Incomes shall be qualified at the applicable 60%, 80%, 100% or 120% median income levels for households based on number of people per household as adjusted annually by the Department of Housing and Urban Development for the Medford-Ashland Metropolitan Service Area.

i. The maximum monthly payment for a covered unit shall be established to not exceed the affordability limits, established above, indicated in following table:

Studio	=	1 person household income for the designated income level
1 Bedroom	=	2 person household income for the designated income level
2 Bedroom	=	4 person household income for the designated income level
3 Bedroom	=	6 person household income for the designated income level
4 Bedroom	=	7 person household income for the designated income level
Households with a greater or lesser number of occupants shall remain eligible for covered units but the sale price shall not be adjusted due to household size above the limits established above.		

b. Net assets, excluding pension plans and IRA's and excluding the down payment and closing costs, do not exceed \$20,000 for a household or \$130,000 if one household member is 65 years or older.

c. Mortgage payment does not exceed more than 30% of the monthly income for the target income level indicated in 3.1(a)(i) on total housing costs which includes PITI and any homeowners or regular maintenance fees.

d. The maximum monthly payment for a covered unit shall be calculated by utilizing the interest rate for the Oregon Bond Loan Rate Advantage as updated by the State of Oregon Housing and Community Services Department.

2. They shall remain affordable as follows:

a. The purchasers of the affordable housing units shall agree to the City of Ashland Affordable Housing Resale Restriction Agreement establishing a period of affordability of not less than 30 years. In no event will a purchaser be required to sell the unit subject to the aforementioned Agreement for less than his or her original purchase price, plus any applicable closing costs and realtor fees.

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- b. For housing financed by Farmer' s Home Administration (FmHA), the affordability shall be assured by the FmHA' s recapture provisions FmHA which require sellers to repay FmHA for all the subsidies accrued during the period the sellers resided in the housing unit.

SECTION 2. EFFECTIVE DATE. This Resolution takes effect upon signing by the Mayor.

This resolution was read by title only in accordance with Ashland Municipal Code §2.04.090 duly PASSED and ADOPTED this 20 day of June , 2006.

Barbara Christensen, City Recorder
(Signature on File)

Alex Amarotico, Council Chair
(Signature on File)

(Ord 2942, amended, 10/02/2007)

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CHAPTER 18.30

NM NORTH MOUNTAIN NEIGHBORHOOD

SECTIONS:

- 18.30.010 Purpose.**
- 18.30.020 NM General Regulations.**
- 18.30.030 NM-C Neighborhood Central Overlay.**
- 18.30.040 Neighborhood Core Overlay NM-MF.**
- 18.30.050 Neighborhood General Overlay NM-R-1-5 .**
- 18.30.060 Neighborhood Edge Overlay NM-R-1-7.5.**
- 18.30.070 Civic Spaces Overlay -- NM-Civic.**
- 18.30.080 Open Spaces Overlay -- NM-O.**
- 18.30.090 North Mountain Greenway Overlay-- NM-G.**
- 18.30.100 Site Plan and Architectural Review Procedure.**
- 18.30.110 Applicability of Other Sections of the Land Use Ordinance.**

SECTION 18.30.010 Purpose.

This district is designed to provide an environment suitable for traditional neighborhood living, working, and recreation. The NM district and Neighborhood Plan is a blueprint for promoting a variety of housing types, mixed-use developments, neighborhood oriented businesses and community services in a manner which enhances property values and preserves open spaces and significant natural features.

SECTION 18.30.020 NM General Regulations.

A. Conformance with North Mountain Neighborhood Plan.

Land uses, streets, alleys and pedestrian/bicycle access ways shall be located in accordance with those shown on the North Mountain Neighborhood Plan adopted by Ordinance No. 2800.

1. Major and Minor Amendments.

- a. Major amendments are those which result in any of the following:
 - (1) A change in land use.
 - (2) A change in the street layout plan that requires a street to be eliminated or to be located in such a manner as to not be consistent with the neighborhood plan.
 - (3) A change in the North Mountain Neighborhood Design Standards.
 - (4) A change in planned residential density.
 - (5) A change not specifically listed under the major and minor amendment definitions.
- b. Minor amendments are those which result in any of the following:
 - (1) Changes related to street trees, street furniture, fencing, or signage.
 - (2) A change in the street layout that requires a local street, alley, easement, pedestrian/bicycle accessway or utility to be shifted more than 50 feet in any direction, as long as the change maintains the connectivity established by the neighborhood plan.

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2. Major Amendment Type II Procedure.

A major amendment to the neighborhood plan shall be processed as a Type II planning action concurrently with specific development proposals. In addition to complying with the standards of this section, findings must demonstrate that:

- a. The proposed modification maintains the connectivity established by the neighborhood plan;
- b. The proposed modification furthers the design and access concepts advocated by the neighborhood plan, including but not limited to pedestrian access, bicycle access, and de-emphasis on garages as a residential design feature;
- c. The proposed modification will not adversely affect the purpose, objectives, or functioning of the neighborhood plan.
- d. The proposed modification is necessary to adjust to physical constraints evident on the property, or to protect significant natural features such as trees, rock outcroppings, wetlands, or similar natural features, or to adjust to existing property lines between project boundaries.

3. Minor Amendment Type I Procedure.

A minor amendment to the neighborhood plan may be approved as a Type I planning action concurrently with specific development proposals. The request for a minor amendment shall include findings that demonstrate that the change will not adversely affect the purpose, objectives, or functioning of the neighborhood plan.

4. Utilities shall be installed underground to the greatest extent feasible.

Where possible, alleys shall be utilized for utility location, including transformers, pumping stations, etc...

B. Lots With Alley Access. If the site is served by an alley, access and egress for motor vehicles shall be to and from the alley. In such cases, curb openings along the street frontage are prohibited.

C. Street, Alley and Pedestrian/bicycle Accessway Standards. The standards for street, alley, and pedestrian/bicycle accessway improvements shall be as designated in the North Mountain Neighborhood Design Standards.

D. Minimum Density. Proposals resulting in the creation of additional parcels or greater than three units on a single parcel shall provide for residential densities between 75 to 110 percent of the base density for a given overlay, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations or similar physical constraints. (Proposals involving the development of neighborhood commercial businesses and services shall be exempt from the above requirements).

E. Density Transfer. Density transfer within a project from one overlay to another may be approved if it can be shown that the proposed density transfer furthers the design and access concepts advocated by the neighborhood plan, and provides for a variety of residential unit sizes, types and architectural styles.

F. Drive-Up Uses. Drive-Up uses are not permitted within the North Mountain Neighborhood Plan area.

G. Performance Standards Overlay. All applications involving the creation of three or more lots shall be processed under the Performance Standards Option chapter 18.88.

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- H. Fencing.** No fencing exceeding three feet in height shall be allowed in the front lot area between the structure and the street. No fencing shall be allowed in areas designated as Floodplain Corridor.
- I. Adjustment of Lot Lines.** As part of the approval process for specific development proposals, adjustments to proposed lot lines may be approved consistent with the density standards of the neighborhood plan zoning district.
(ORD 2951, amended, 07/01/2008)

SECTION 18.30.030 NM-C Neighborhood Central Overlay.

- A. Permitted Density.** The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the Neighborhood Central Overlay shall be 20 units per acre, however, units of less than 500 square feet of gross habitable area shall count as 0.75 units for the purposes of density calculations.
- B. Off-Street Parking.** In all areas within the Neighborhood Central Overlay, all uses are not required to provide off-street parking or loading areas, except for residential uses where one space shall be provided per residential unit. All parking areas shall comply with the Off-Street Parking chapter and the Site Review chapter.
- C. Area, Yard Requirements:** There shall be no minimum lot area, lot coverage, front yard, side yard or rear yard requirement, except as required under the Off-Street Parking Chapter or where required by the Site Review Chapter.
- D. Solar Access:** The solar setback shall not apply in the Neighborhood Central Overlay.
- E. Permitted Uses.** The following uses are permitted in the NM-C overlay subject to conditions limiting the hours and impact of operation;
1. Residential Uses, subject to the above density requirements.
 2. Home Occupations.
 3. Parks and Open Spaces.
 4. Agriculture.
 5. Neighborhood Oriented Retail Sales and Personal Services, with each building limited to 3,500 square feet of total floor area.
 6. Professional Offices, with each building limited to 3,500 square feet of total floor area.
 7. Restaurants.
 8. Manufacturing or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet.
 9. Basic Utility Providers, such as telephone or electric providers, with each building limited to 3,500 square feet of total floor area.
 10. Community Services, with each building to 3,500 square feet of total floor area.
 11. Churches or Similar Religious Institutions, when the same such use is not located on a contiguous property, nor more than two such uses in a given Overlay.
 12. Neighborhood Clinics, with each building limited to 3,500 square feet of total floor area.

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F. Conditional Uses.

1. Temporary Uses.
2. Public Parking Lots.

G. Lot Coverage: Maximum lot coverage shall be seventy-five (75) percent.

(ORD 2951, amended, 07/01/2008)

SECTION 18.30.040 Neighborhood Core Overlay NM-MF.

A. Permitted Density. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the Neighborhood Core Overlay shall be 12.0 units per acre, however, units of less than 500 square feet of gross habitable area shall count as 0.75 units for the purposes of density calculations.

1. Minimum density requirements. Subdivisions or multi-family developments shall be developed, or clearly demonstrate that further development will occur, in accordance with the minimum density standard described in 18.030.020 D.

B. Off-Street Parking. In all areas within the Neighborhood Core Overlay, off-street parking shall be provided in accord with the chapter on Off-Street Parking.

C. Yard Requirements.

1. Front Yards. Front yard setbacks shall be a minimum of ten (10) feet and a maximum of twenty-five (25) feet, excluding garages. Front yards may be reduced to five (5) feet for unenclosed porches with a minimum depth of six (6) feet and a minimum width of eight (8) feet. Garages shall be setback a minimum of fifteen (15) feet from the front building facade and twenty (20) feet from the sidewalk. No greater than 50 percent (50%) of the total lineal building facade facing the street shall consist of garage, carport or other covered parking space.
2. Side Yards. Side yard setbacks shall be a minimum of five (5) feet for the first story, excluding half-stories and upper floor dormer space, five (5) feet for each additional story, and ten (10) feet when abutting a public street. Single story, detached garages and accessory structures shall have a minimum three (3) foot side yard, except that no side yard is required for accessory buildings sharing a common wall.
3. Rear Yards. Ten feet per story, with the exception of upper floor dormer space which may be setback 15 feet. Single story, detached garages and accessory buildings, and two story accessory buildings adjacent to an alley shall have a minimum rear yard of four feet.

D. Lot Coverage: 75 percent

E. Permitted Uses.

1. Residential Uses, subject to the above density requirements.
2. Home Occupations.
3. Parks and Open Spaces.
4. Agriculture.

(ORD 2951, amended, 07/01/2008)

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SECTION 18.30.050 Neighborhood General Overlay NM-R-1-5.

A. Permitted Density. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the Neighborhood General Overlay shall be 5.0 units per acre. Accessory Residential Units shall not be included in base density calculations.

B. Off-Street Parking. In all areas within the Neighborhood General Overlay, off-street parking shall be provided in accordance with the General Regulations of this chapter and the Off-Street Parking chapter.

C. Yard Requirements

1. **Front Yards.** Front yard setbacks shall be a minimum of ten (10) feet and a maximum of twenty-five (25) feet, excluding garages. Front yards may be reduced to five (5) feet for unenclosed porches with a minimum depth of six (6) feet and a minimum width of eight (8) feet. Garages shall be setback a minimum of fifteen (15) feet from the front building facade and twenty (20) feet from the sidewalk. No greater than 50 percent (50%) of the total lineal building facade facing the street shall consist of garage, carport or other covered parking space.
2. **Side Yards.** Side yard setbacks shall be a minimum of five (5) feet for the first story, excluding half-stories and upper floor dormer space, five (5) feet for each additional story, and ten (10) feet when abutting a public street. Single story, detached garages and accessory structures shall have a minimum three (3) foot side yard, except that no side yard is required for accessory buildings sharing a common wall.
3. **Rear Yards.** Ten feet per story, with the exception of upper floor dormer space which may be setback 15 feet. Single story, detached garages and accessory buildings, and two story accessory buildings adjacent to an alley shall have a minimum rear yard of four feet.

D. Permitted Uses.

1. Residential Uses, subject to the above density requirements.
2. Home Occupations.
3. Parks and Open Spaces.
4. Agriculture.

E. Special Permitted Uses.

1. Accessory Residential Units, subject to the following requirements:
 - a. The proposal must comply with lot coverage and setback requirements of the underlying zone.
 - b. That the maximum number of dwellings not exceed two per lot.
 - c. That the maximum gross habitable floor area (GHFA) of the accessory residential unit not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 750 sq. ft. GHFA. Second story accessory residential units constructed above a detached accessory building shall not exceed 500 sq. ft. GHFA.
 - d. Additional parking shall be in conformance with the Off-Street Parking provisions for single-family dwellings of this title.
2. Community Services, with each building limited to 2,500 square feet of total floor area.

F. Lot Coverage: Maximum lot coverage shall be fifty percent (50%).

(ORD 2951, amended, 07/01/2008)

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SECTION 18.30.060 Neighborhood Edge Overlay NM-R-1-7.5

- A. Permitted Density.** The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the answer shall not apply towards the total density. Base density for the Neighborhood Edge Overlay shall be 3.6 units per acre. Accessory Residential Units shall not be included in base density calculations.
- B. Off-Street Parking.** In all areas within the Neighborhood Edge Overlay, off-street parking shall be provided in accordance with the General Regulations of this chapter and the Off-Street Parking chapter.
- C. Yard Requirements.**
1. Front Yards. Front yard setbacks shall be a minimum of ten (10) feet and a maximum of twenty-five (25) feet, excluding garages. Front yards may be reduced to five (5) feet for unenclosed porches with a minimum depth of six (6) feet and a minimum width of eight (8) feet. Garages shall be setback a minimum of fifteen (15) feet from the front building facade and twenty (20) feet from the sidewalk. No greater than 50 percent (50%) of the total lineal building facade facing the street shall consist of garage, carport or other covered parking space.
 2. Side Yards. Side yard setbacks shall be a minimum of five (5) feet for the first story, excluding half-stories and upper floor dormer space, five (5) feet for each additional story, and ten (10) feet when abutting a public street. Single story, detached garages and accessory structures shall have a minimum three (3) foot side yard, except that no side yard is required for accessory buildings sharing a common wall.
 3. Rear Yards. Ten feet per story, with the exception of upper floor dormer space which may be setback 15 feet. Single story, detached garages and accessory buildings, and two story accessory buildings adjacent to an alley shall have a minimum rear yard of four feet.
- D. Permitted Uses.**
1. Residential Uses, subject to the above density calculations.
 2. Home Occupations.
 3. Parks and Open Spaces.
 4. Agriculture
- E. Special Permitted Uses.**
1. Accessory Residential Units, subject to Site Review approval under a Type I Procedure and the following requirements:
 - a. The proposal must comply with lot coverage and setback requirements of the underlying zone.
 - b. That the maximum number of dwellings not exceed two per lot.
 - c. That the maximum gross habitable floor area (GHFA) of the accessory residential unit not exceed 50% of the GHFA of the primary residence on the lot, and shall not exceed 750 sq. ft. GHFA. Second story accessory residential units constructed above a detached accessory building shall not exceed 500 sq. ft. GHFA.
 - d. Additional parking shall be in conformance with the Off-Street Parking provisions for single-family dwellings of this title.

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F. Floodplain Corridor.

1. Developments including lands within the identified floodplain corridor, including street development, shall comply with the following requirements:
 - a. A hydrologic study prepared by a geotechnical expert shall be submitted concurrently with specific development proposals indicating the impact of the development on the floodplain corridor, and all efforts to be taken to mitigate negative impacts from flooding in the area of the floodplain corridor and areas of historic flooding.
 - b. The design of Greenway Drive, as indicated on the neighborhood plan, shall incorporate flood protection measures, as determined by a geotechnical expert, in the overall design of the new street. Such protection measures shall address flooding in the floodplain corridor and in areas of historic flooding.
 - c. A grading plan for the overall development, indicating grade relationships between the development and the floodplain corridor, shall be included with the specific development proposal. A statement shall be included, prepared by a geotechnical expert or licensed surveyor, indicating that the finish grade for all buildable areas outside of the floodplain corridor shall be at or above the Ashland floodplain corridor elevations indicated on the officially adopted city maps.

G. Lot Coverage: Maximum lot coverage shall be forty-five percent (45%).

(ORD 2951, amended, 07/01/2008)

SECTION 18.30.070 Civic Spaces Overlay -- NM-Civic.

A. General Requirements. Civic spaces identified on the Neighborhood Plan map shall be developed as part of a specific project approval. If the project is proposed to be developed in phases, 50 percent of the area of the Civic Space shall be developed in the first phase with the remainder of the area to be developed prior to building permit issuance for 2/3 thirds of the project's units.

B. Permitted Uses of Civic Spaces.

1. Community Services.
2. Recreation and Open Space.
3. Agriculture, including community garden space.

SECTION 18.30.080 Open Spaces Overlay -- NM-O.

A. General Requirements. Open spaces identified on the Neighborhood Plan map shall be developed as part of a specific project approval. If the project is proposed to be developed in phases, 50 percent of the area of the Open Space shall be developed in the first phase with the remainder of the area to be developed prior to building permit issuance for 2/3 thirds of the project's units.

SECTION 18.30.090 North Mountain Greenway Overlay-- NM-G.

A. Applicability. All projects containing land identified on the North Mountain Neighborhood Plan Map as part of the North Mountain/Bear Creek Greenway shall dedicate that area so designated to the City of Ashland for park purposes. It is recognized that the upzoning of properties as part of the North Mountain Neighborhood Plan imparted significant value to the land, and the required dedication of those lands within the North Mountain/Bear Creek

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Greenway for park purposes is proportional to the value bestowed upon the property through the change in zoning designation.

- B. Dedication on Final Survey Plat.** The dedication of lands within the North Mountain/Bear Creek Greenway shall be indicated on the final survey plat accompanying all partitions, subdivisions and Performance Standards developments.
- C. Development Restrictions.** It is recognized that lands within the North Mountain/Bear Creek Greenway are identified as part of Ashland's Floodplain Corridor Lands, and are prohibited from further development, except as outlined in the Physical and Environmental Constraints chapter.
- D. Prohibition of Density Transfer.** No transfer of density from lands identified within the North Mountain/Bear Creek Greenway shall be permitted. It is recognized that the upzoning associated with the North Mountain Neighborhood Plan accommodated such transfers.
- E. Greenway Drive.** The design of Greenway Drive, as indicated on the neighborhood plan, shall incorporate flood protection measures, as determined by a geotechnical expert, in the overall design of the new street. Such protection measures shall address flooding in the floodplain corridor and in areas of historic flooding.

SECTION 18.30.100 Site Plan and Architectural Review Procedure.

- A. Project Applicability.** The following planning applications shall comply with applicable North Mountain Neighborhood Design Standards and all other requirements outlined in the Site Design and Use Standards chapter 18.72.
 - 1. Performance Standards Option Developments.
 - a. For applications processed under the Performance Standard's Option, the following additional information shall be provided:
 - i. Typical elevations incorporating the architectural elements described in the North Mountain Neighborhood Design Standards shall be included for all proposed buildings as part of the application for Final Plan.
 - 2. Partitions.
 - 3. All Development Requiring Site Plan Approval under the Site Design and Use Chapter 18.72.
- B. Review and Approval Procedure.** All land use applications shall be reviewed and processed in accordance with the requirements described in the Procedures chapter 18.108.
- C. Supplemental Approval Criteria.** In addition to the criteria for approval required by other sections of the land use ordinance, applications within the NM land use district shall also address the following criteria:
 - 1. That a statement has been provided indicating how the proposed application conforms with the general design requirements of the North Mountain Neighborhood Plan, including density, transportation, building design, and building orientation.
 - 2. That the proposed application complies with the specific design requirements as provided in the North Mountain Neighborhood Design Standards.

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SECTION 18.30.110 Applicability of Other Sections of the Land Use Ordinance.

A. Interpretation. Where the provisions of this Chapter conflict with comparable standards described in any other ordinance, resolution or regulation, the provisions of the North Mountain Neighborhood zoning district shall govern."

(ORD 2800, 1997)

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CHAPTER 18.32

C-1 RETAIL COMMERCIAL DISTRICT

SECTIONS:

18.32.010	Purpose.
18.32.020	Permitted Uses.
18.32.025	Special Permitted Uses.
18.32.030	Conditional Uses.
18.32.040	General Regulations.
18.32.050	"D" Downtown Overlay District.

SECTION 18.32.010 Purpose.

This district is designed to stabilize, improve and protect the characteristics of those areas providing commercial commodities and services.

SECTION 18.32.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Professional, financial, business and medical offices, and personal service establishments such as beauty and barber shops, launderette, and clothes and laundry pick-up stations.
- B. Stores, shops and offices supplying commodities or performing services, such as a department store, antique shop, artists supply store, and including a regional shopping center or element of such center, such as a major department store.
- C. Restaurants.
(Ord 2812, S2 1998)
- D. Theaters, but not including a drive-in.
- E. Manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies six hundred (600) square feet or less, and is contiguous to the permitted retail outlet.
- F. Mortuaries and crematoriums.
- G. Printing, publishing, lithography, xerography, copy centers.
- H. Temporary tree sales, from November 1 to January 1.
- I. Public and quasi-public utility and service buildings, and public parking lots, but excluding electrical substations.
- J. Kennels and veterinary clinics, with all animals housed within structures.
- K. Nightclubs and Bars. Except as provided in 18.32.030, however, no nightclub or bar is permitted within the Historic Interest Area unless it is located in the "D" Downtown Overlay District.
(Ord 2812, S2 1998)

SECTION 18.32.025 Special Permitted Uses.

The following uses and their accessory uses are permitted outright subject to the requirements of this section and the requirements of Chapter 18.72, Site Design and Use Standards.

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A. Commercial laundry, cleaning and dyeing establishments.

1. All objectionable odors associated with the use shall be confined to the lot upon which the use is located, to the greatest extent feasible. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
2. The use shall comply with all requirements of the Oregon Department of Environmental Quality.

B. Bowling alleys, auditoriums, skating rinks, and miniature golf courses. If parking areas are located within 200' of a residential district, they shall be shielded from residences by a fence or solid vegetative screen a minimum of 4' in height.

C. Automobile fuel sales, and automobile and truck repair facilities. These uses may only be located in the Freeway Overlay District as shown on the official zoning map.

D. Residential uses.

1. At least 65% of the total gross floor area of the ground floor, or at least 50% of the total lot area if there are multiple buildings shall be designated for permitted or special permitted uses, excluding residential.
2. Residential densities shall not exceed 30 dwelling units per acre in the C-1 District, and 60 dwelling units per acre in the C-1-D District. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
3. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the underlying C-1 or C-1-D District.
4. Off-street parking shall not be required for residential uses in the C-1-D District.
5. If the number of residential units exceeds 10, then at least 10% of the residential units shall be affordable for moderate income persons in accord with the standards established by resolution of the Ashland City Council through procedures contained in the resolution. The number of units required to be affordable shall be rounded down to the nearest whole unit.

E. Drive-up uses as defined and regulated as follows:

1. Drive-up uses may be approved in the C-1 District only, and only in the area east of a line drawn perpendicular to Ashland Street at the intersection of Ashland Street and Siskiyou Boulevard.
2. Drive-up uses are prohibited in Ashland's Historic Interest Area as defined in the Comprehensive Plan.
3. Drive-up uses are subject to the following criteria:
 - a. The average waiting time in line for each vehicle shall not exceed five minutes. Failure to maintain this average waiting time may be grounds for revocation of the approval.
 - b. All facilities providing drive-up service shall provide at least two designated parking spaces immediately beyond the service window or provide other satisfactory methods to allow customers requiring excessive waiting time to receive service while parked.
 - c. A means of egress for vehicular customers who wish to leave the waiting line shall be provided.

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- d. The grade of the stacking area to the drive-up shall either be flat or downhill to eliminate excessive fuel consumption and exhaust during the wait in line.
- e. The drive-up shall be designed to provide as much natural ventilation as possible to eliminate the buildup of exhaust gases.
- f. Sufficient stacking area shall be provided to ensure that public rights-of-way are not obstructed.
- g. The sound level of communications systems shall not exceed 55 decibels at the property line and shall otherwise comply with the Ashland Municipal Code regarding sound levels.
- h. The number of drive-up uses shall not exceed the 12 in existence on July 1, 1984. Drive-up uses may be transferred to another location in accord with all requirements of this section. The number of drive-up window stalls shall not exceed 1 per location, even if the transferred use had greater than one stall.

F. Kennel and veterinary clinics where animals are housed outside, provided the use is not located within 200' of a residential district.

(ORD 2951, amended, 07/01/2008)

SECTION 18.32.030 Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on Conditional Use Permits:

- A. Electrical substations.
- B. Automobile fuel sales, and automobile and truck repair facilities, except as allowed as a special permitted use in 18.32.025.
- C. New and used car sales, boat, trailer, and recreational vehicles sales and storage areas, except within the Historic Interest Area as defined in the Comprehensive Plan.
- D. Hotels and motels.
- E. Temporary uses.
- F. Outdoor storage of commodities associated with a permitted, special permitted or conditional use.
- G. Hostels, provided that the facility be subject to an annual Type I review for at least the first three years, after which time the Planning Commission may approve, under a Type II procedure, a permanent permit for the facility.
- H. Building material sales yards, but not including concrete or asphalt batch or mixing plants.
- I. Churches or similar religious institutions.
- J. Wireless Communication Facilities not permitted outright and authorized pursuant to Section 18.72.180.
- K. Structures which are greater than forty (40) feet in height, but less than fifty-five (55) feet, in the "D" Downtown Overlay District.

(ORD 2951, amended, 07/01/2008)

SECTION 18.32.040 General Regulations.

- A. Area, Width, Yard Requirements. There shall be no lot area, width, coverage, front yard, side yard, or rear yard, except as required under the Off-Street Parking and Solar Access Chapters; where required or increased for conditional uses; where required by the Site Review Chapter or where abutting a residential district, where such setback shall be maintained at ten feet per story for rear yards and ten feet for side yards.

(Ord 2859 S1, 2000)

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B. Maximum Building Height. No structure shall be greater than 40 feet in height.

SECTION 18.32.050 "D" Downtown Overlay District.

- A. In all areas within the "D" Downtown Overlay District, all uses are not required to provide off-street parking or loading areas, except for hotel, motel, or hostel uses. All parking areas provided shall comply with the Off-Street Parking chapter and the Site Review chapter.
- B. Structures which are greater than 40 feet in height, but less than 55 feet, may be permitted as a conditional use.
- C. The solar access setback does not apply in the "D" Overlay district."
(Ord. 2688-1992)

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CHAPTER 18.40

E-1 EMPLOYMENT DISTRICT

SECTIONS:

18.40.010	Purpose.
18.40.020	Permitted Uses.
18.40.030	Special Permitted Uses
18.40.040	Conditional Uses.
18.40.050	General Regulations.

SECTION 18.40.010 Purpose.

The district is designed to provide for a variety of uses such as office, retail, or manufacturing in an aesthetic environment and having a minimal impact on surrounding uses.

SECTION 18.40.020 Permitted Uses.

The following uses and their accessory uses are permitted outright, subject to the requirements of Chapter 18.72, Site Design and Use Standards:

- A. Professional, financial, and business and medical offices, and personal service establishments.
- B. Stores, shops and offices supplying commodities or performing services, except that retail uses shall be limited to no greater than 20,000 sq. ft. of gross leasable floor space per lot.
- C. Restaurants.
(Ord 2812, S4 1998)
- D. Electrical, furniture, plumbing shop, printing, publishing, lithography or upholstery.
- E. Light manufacturing, assembly, fabricating, or packaging of products from previously prepared materials, such as cloth, plastic, wood (not including saw, planing, or lumber mills or molding plants), paper, cotton, precious or semi-precious metals or stone.
- F. Manufacture of electric, electronic, or optical instruments and devices.
- G. Administrative or research establishments.
- H. Motion picture, television, or radio broadcasting studios operating at an established or fixed location.
- I. Mortuaries and crematoriums.
- J. Building material sales yards, but not including concrete or asphalt batch or mixing plants.
- K. Kennels and veterinary clinics, with all animals housed within structures.
- L. Bakeries
- M. Public and quasi-public utility and service buildings and yards, structures, and public parking lots, but excluding electrical substations.
- N. Manufacture of pharmaceutical and similar items.
- O. Wireless Communication Facilities permitted outright pursuant to Section 18.72.180.
(ORD 2951, amended, 07/01/2008)

SECTION 18.40.030 Special Permitted Uses.

The following uses and their accessory uses are permitted outright subject to the requirements of this section, including all requirements of 18.72, Site Design and Use Standards.

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- A. Bottling plants, cleaning and dyeing establishments, laundries and creameries.
 - 1. All objectionable odors associated with the use shall be confined to the lot upon which the use is located to the greatest extent feasible. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - 2. The use shall comply with all requirements of the Oregon Department of Environmental Quality.
- B. Wholesale storage and distribution establishments. Provided, however, that for the uses specified in subsection A and B above, no deliveries or shipments shall be made from 9pm to 7am where the property on which the use is located is within 200 feet of any residential district.
- C. Recycling depots, provided the use is not located within 200' of a residential district.
- D. Kennels and veterinary clinics where animals are housed outside, provided the use is not located within 200' of a residential district.
- E. Residential uses. As indicated as R-Overlay on the official zoning map, and in conformance with the Overlay Zones chapter 18.56.
- F. Cabinet, carpentry, machine, and heating shops, if such uses are located greater than 200' from the nearest residential district.
- G. Manufacture of food products, but not including the rendering of fats or oils. For any manufacture of food products with 200' of a residential district:
 - 1. All objectionable odors associated with the use shall be confined to the lot upon which the use is located, to the greatest extent feasible. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected. Odors which are in violation of this section include but are not limited to the following:
 - a. Odors from solvents, chemicals or toxic substances.
 - b. Odors from fermenting food products.
 - c. Odors from decaying organic substances or human or animal waste.
 - 2. Mechanical equipment shall be located on the roof or the side of a building with the least exposure to residential districts. Provided, however, that it may be located at any other location on or within the structure or lot where the noise emanating from the equipment is no louder, as measured from the nearest residential district, than if located on the side of the building with least exposure to residential districts. Mechanical equipment shall be fully screened and buffered.
- H. Cold Storage Plants, if such uses are located greater than 200' from the nearest residential district.
- I. Automobile and truck repair facilities, excluding auto body repair and paint shops. All cars and trucks associated with the use must be screened from view from the public right-of-way by a total sight obscuring fence. Facilities of 3 bays or larger shall not be located within 200' of a residential district.

(ORD 2951, amended, 07/01/2008, ORD 3052, amended 12/16/2011)

SECTION 18.40.040 Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on Conditional Use Permits:

- A. Electrical substations.
- B. Mini-warehouses and similar storage areas.

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- C. Contractor equipment storage yards or storage and rental of equipment commonly used by a contractor.
- D. Automobile fuel sales.
- E. New and used car sales, boat, trailer and recreational vehicles sales and storage areas, provided that the use is not located within the Historic Interest Area as defined in the Comprehensive Plan.
- F. Hotels and motels.
- G. Any use which involves outside storage of merchandise, raw materials, or other material associated with the primary use on the site.
- H. Private college, trade school, technical school, or similar school.
- I. Cabinet, carpentry, machine, and heating shops, if such uses are located less than or equal to 200' from the nearest residential district.
- J. Cold storage plants, if such uses are located less than or equal to 200' from the nearest residential district.
- K. Automotive body repair and painting, including paint booths.
 - 1. The use shall not be located within 200' of the nearest residentially zoned property.
 - 2. All objectionable odors associated with the use shall be confined to the lot, to the greatest extent feasible. For the purposes of this provision, the standard for judging "objectionable odors" shall be that of an average, reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor is made and the odor is detected.
 - 3. The use shall comply with all requirements of the Oregon Department of Environmental Quality.
- L. Churches and similar religious institutions.
- M. Nightclubs and Bars.
- N. Theaters (excluding drive-in) and similar entertainment uses.
- O. Temporary uses.
- P. Wireless Communication Facilities not permitted outright and authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008; Ord 2894, Amended, 03/04/2003, Section 40.040.N Added)

SECTION 18.40.050 General Regulations.

- A. There shall be no area or width requirement except as may be required for conditional uses.
- B. There shall be no yard requirement except when a lot or parcel adjoins a residential district, in which case a side and rear yard of at least ten feet per story shall be required, and except as required in the Site Review and Solar Access chapters.
- C. No structure shall be greater than 40 feet in height.
- D. There shall be no manufacturing, retailing, or other activity on the site which is not entirely conducted within a building, except as specifically permitted in Section 18.40.040."

(Ord. 2688-1992)

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CHAPTER 18.52

M-1 INDUSTRIAL DISTRICT

SECTIONS:

- 18.52.010 Purpose.**
18.52.020 Permitted Uses.
18.52.030 Conditional Uses.
18.52.040 General Regulations.

SECTION 18.52.010 Purpose.

This district is designed to encourage sound industrial development in the City by providing a protective environment exclusively for such development.

SECTION 18.52.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Any manufacturing, processing, assembling, research, wholesale or storage use.
- B. Railroad yards and freight stations, trucking and motor freight stations and facilities.
- C. Public and public utility service buildings, structures and uses.
- D. Conditional uses in the Employment District listed in Section 18.40.030 and 18.40.040 of this Chapter, except residential uses.
(Ord. 2389 S1, 1986)
- E. Building materials sales yards.
- F. Permitted uses in the Employment District listed in Section 18.40/020 of this Chapter.
(Ord. 2389 S2, 1986)
(Ord 2886, Amended, 08/20/2002)

SECTION 18.52.030 Conditional Uses.

The following uses and their accessory uses are permitted when authorized in accordance with the chapter on Conditional Use Permits:

- A. Junkyard and auto wrecking yards.
- B. Kennels and veterinary clinics.
- C. Banks, restaurants or other convenience establishments designed to serve persons working in the zone only.
- D. Concrete or asphalt batch or mixing plants.
- E. Temporary uses.
- F.. Wireless Communication Facilities not permitted outright and authorized pursuant to Section 18.72.180.
(ORD 2951, amended, 07/01/2008; Ord 2886, Amended, 08/20/2002)

SECTION 18.52.040 General Regulations.

- A. Minimum Lot Area, Width, Depth. There is no minimum lot area, lot width, or lot depth.
- B. Minimum Front Yard. The minimum front yard shall be 25 feet.
- C. Minimum Side Yard. There is no minimum side yard requirement, except twenty (20)

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feet where adjoining a residential district.

D. **Minimum Rear Yard.** There is no minimum rear yard requirement, except twenty (20) feet where adjoining a residential district.

E. **Maximum Building Height.** No building shall be greater than forty (40) feet in height.

F. **Solar Setback.** The solar setback shall apply in this district.

(Ord. 2228, 1982)

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CHAPTER 18.53

CM CROMAN MILL

SECTIONS:

- 18.53.010 Purpose.**
- 18.53.020 General Requirements.**
- 18.53.030 Croman Mill District Plan Development Standards.**
- 18.53.040 Use Regulations.**
- 18.53.050 Dimensional Regulations.**
- 18.53.060 Croman Mill District Open Space Overlay.**
- 18.53.070 Applicability of Other Sections of the Land Use Ordinance.**

SECTION 18.53.010 Purpose.

The purpose of this section is to implement the Croman Mill Site Redevelopment Plan. The district is designed to provide an environment suitable for employment, recreation and living. The CM zoning district is a blueprint for promoting family-wage jobs, professional office and manufacturing commerce, neighborhood-oriented businesses, mixed-use projects and community services in a manner that enhances property values by providing transportation options and preserving significant open spaces while minimizing the impact on natural resources through site and building design.

SECTION 18.53.020 General Requirements.

A. Conformance with the Croman Mill District Plan.

Land uses and development, including buildings, parking areas, streets, bicycle and pedestrian access ways, multi-use paths and open spaces shall be located in accordance with those shown on the Croman Mill District Plan maps adopted by Ordinance #3031 (August, 2010).

B. Major and minor amendments to the Croman Mill District Plan shall comply with the following procedures:

1. Major and Minor Amendments.

- a. Major amendments are those which result in any of the following:
 - i. A change in the land use overlay to CI Compatible Industrial or OE Office Employment.
 - ii. A modification to the street layout plan that necessitates a street or other transportation facility to be eliminated.
 - iii. A change not specifically listed under the major and minor amendment definitions.
- b. Minor amendments are those which result in any of the following:
 - i. A change in the Plan layout that requires a street, access way, multi-use path or other transportation facility to be shifted more than 25 feet in any direction, as long as the change maintains the connectivity established by the Croman Mill District Plan.

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- ii. Changes related to street trees, street furniture, fencing or signage.
 - iii. A change in the design of a street in a manner inconsistent with the Croman Mill District Standards.
 - iv. A modification of a driveway access location in a manner inconsistent with the Croman Mill District Standards.
 - v. A site layout, landscaping or building design which is inconsistent with the Croman Mill District Standards.
 - vi. A change to an area allocation for special permitted uses in section 18.53.040.B.
 - vii. A change in a dimensional standard requirement in section 18.53.050, but not including height and residential density.
2. Major Amendment Type II – Approval Procedure.
A major amendment to the Croman Mill District Plan is subject to a public hearing and decision under a Type II Procedure. A major amendment may be approved upon the hearing authority finding that:
- a. The proposed modification maintains the connectivity established by the district plan, or the proposed modification is necessary to adjust to physical constraints evident on the property, or to protect significant natural features such as trees, rock outcroppings, wetlands, or similar natural features, or to adjust to existing property lines between project boundaries;
 - b. The proposed modification furthers the design, circulation and access concepts advocated by the district plan; and
 - c. The proposed modification will not adversely affect the purpose and objectives of the district plan.
3. Minor Amendment Type I Procedure.
A minor amendment to the Croman Mill District Plan is subject to an administrative decision under the Type I Procedure. Minor amendments shall not be subject to the Administrative Variance from Site Design and Use Standards of Chapter 18.72. A minor amendment may be approved upon finding that granting the approval will result in a development design that equally or better achieves the stated purpose of this chapter, objectives of specific Croman Mill District Standards, and guiding principles of the Croman Mill Site Redevelopment Plan.

SECTION 18.53.030 Croman Mill District Plan Development Standards.

A. Ashland Local Street Standards

The design and construction of streets and public improvements shall be in accordance with Ashland's Local Street Standards, except as otherwise permitted for the following facilities within the Croman Mill District:

- a. Central Boulevard
- b. Tolman Creek Road Realignment
- c. Local Streets
- d. Protected Bikeway and Pedestrian Path
- e. Central Bike Path
- f. Multi-use Path
- g. Accessways

B. Site Design and Use Standards – Croman Mill District.

New development shall be designed and constructed consistent with Chapter 18.72 Site Design Review, and Section VIII – Croman Mill District Standards of the Site Design and Use Standards.

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SECTION 18.53.040 Use Regulations.

A. Generally.

Uses and their accessory uses are permitted, special permitted or conditional uses in the Croman Mill District as listed in the Land Use Table.

Croman Mill District					
Land Use	NC	MU	OE	CI	OS
Residential					
residential uses	■	■			
temporary employee housing			■	■	
Commercial					
stores, restaurants, and shops less than 3,000 sq.ft., excluding fuel sales, automobile sales and repair	■				
limited stores, restaurants and shops, excluding fuel sales, automobile sales and repair		■	■	■	
professional, financial, business and medical offices		■	■	■	
administrative or research and development establishments		■	■	■	
child or day care centers	■	■	■	■	
fitness, recreational sports, gym or athletic club	■				
ancillary employee services (e.g. cafeteria, fitness area)		■	■	■	
kennels (indoor) and veterinary clinics			■	■	
motion picture, television or radio broadcasting studios		■	■	■	
temporary uses	□	□	□	□	□
Industrial					
manufacturing, assembly, fabrication or packaging including manufacturing of food products		■	■	■	
limited manufacturing affiliated with a retail use	■				
rail freight loading dock facilities				■	
rail or rapid transit passenger facilities	■	■	■	■	
warehouse and similar storage facilities		■	■	■	
limited outdoor storage		■	■	■	
wireless communication facilities attached to an existing structure pursuant to 18.72.180	□	□	■	■	
freestanding wireless communication support structures pursuant to 18.72.180	□	□	□	□	

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Croman Mill District					
Land Use	NC	MU	OE	CI	OS
Public & Institutional					
public service or community buildings with office or space used directly by public	■	□	□	□	■
public service or community buildings without office or space used directly by public	□	□	□	□	□
public and quasi-public utility facilities enclosed in a building	■	■	■	■	■
Oregon Department of Transportation (ODOT) maintenance facility and yard	■				
private school, college, trade school, technical school or similar school	□	□	□	□	
electrical substations			□	□	
<div style="display: flex; justify-content: space-between; padding: 5px;"> ■ Permitted Use ■ Special Permitted Use □ Conditional Use </div>					
NC = Neighborhood Center			CI = Compatible Industrial		
MU = Mixed Use			OS = Open space		
OE = Office/Employment					

B. Special Permitted Uses.

The following uses and their accessory uses are special permitted uses as listed in the Land Use Table and are subject to the requirements of this section and the requirements of Chapter 18.72, Site Design and Use Standards.

1. Residential Uses.

- a. The ground floor area shall be designated for permitted or special permitted uses, excluding residential.
- b. Residential densities shall not exceed the densities in section 18.53.050. For the purposes of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
- c. Residential uses shall execute a hold harmless covenant and agreement stating they shall not protest impacts from commercial and industrial uses within the district.

2. Temporary Employee Housing.

Residential units for use by persons employed within the facility and their families when the following standards are met.

- a. Employee Housing densities shall not exceed two units per acre. For the purposes of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
- b. The employee housing shall be in conjunction with a permitted or special permitted use on the property.
- c. Units shall be restricted by covenant to be occupied by persons employed by a business operating on the property.

3. Limited Stores, Restaurants and Shops; Child or Day Care Facilities; and Ancillary Employee Services.

- a. In the CI Compatible Industrial, MU Mixed Use and OE Office Employment overlays, a maximum of 15 percent of the gross floor area in a building may be used for any or

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- a combination of the following special permitted uses when the standards in this section are met: limited stores, restaurants and shops; child or day care facilities; and ancillary employee services.
- b. Limited Stores, Restaurants and Shops: In the MU Mixed Use overlay, the floor area shall be limited to retail uses in conjunction with a permitted use.
 - c. Child or Day Care Facilities: Primary program activities are integrated into the interior of the building.
 - d. Ancillary Employee Services: Developments may include ancillary employee services such as cafeterias, fitness areas, or other supportive services generally intended to support the needs of employees when the following standards are met.
 - i. The use is integrated into the interior of the building.
 - ii. The ancillary employee services shall be in conjunction with a permitted or special permitted use on the property.
4. Professional, Financial, Business and Medical Offices in CI Overlay.
Developments in the CI Compatible Industrial overlay may include ancillary office uses to support the operations of a permitted use on-site provided the maximum floor area dedicated for office uses shall not exceed 50 percent of the ground floor area.
5. Kennels.
 - a. Kennels shall be located at least 200 feet from the nearest residential dwelling.
 - b. All animals shall be boarded within a building at all times.
 - c. No noise or odor shall emanate outside the walls of the building used as a kennel.
 - d. A disposal management plan shall be provided demonstrating all animal waste will be disposed of in a sanitary manner.
6. Manufacture, Assembly, Fabrication and Packaging in OE Overlay.
Developments in the OE Office Employment overlay may include ancillary manufacturing, assembly, fabrication and packaging uses to support the operations of a permitted or special permitted use on-site when the following standards are met.
 - a. The maximum floor area dedicated to manufacturing, assembly, fabrication and packaging shall be 50 percent of the ground floor area.
 - b. No outside space shall be used for the manufacturing, assembly, fabrication and packaging processes.
7. Limited Manufacturing Affiliated with a Retail Use.
Manufacturing, assembly, fabrication or packaging contiguous to and associated with a retail space, provided the maximum floor area dedicated to manufacturing occupies 1,000 sq.ft., or ten percent (10%) of ground floor area, whichever is less.
8. Warehouse and Similar Storage Facilities.
 - a. The maximum floor area dedicated for use as warehouse or similar storage uses in the OE and MU overlays shall be 50 percent of the ground floor area.
 - b. Warehouse and storage facilities shall be provided only in conjunction with, and for the exclusive use by, a permitted or special permitted use on the property.
 - c. Self-service mini-warehouses are prohibited.
 - d. No outside space shall be used for storage, unless approved as a limited outdoor storage area.
9. Limited Outdoor Storage.
Limited outdoor storage associated with a permitted or special permitted use when the following standards are met.
 - a. The maximum area dedicated to outdoor storage shall be 1,000 sq. ft. in the OE and MU overlay; and 2,500 sq. ft. in the CI overlay, or 50 percent of the ground floor area of the building housing the associated permitted or special permitted use, whichever is greater.

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- b. The outdoor storage shall be located behind or on the side of buildings, and shall be located so the outdoor storage is the least visible from the street that is reasonable given the layout of the site.
 - c. The outdoor storage shall be screened from view by placement of a solid wood or metal fence, or a masonry wall from five to eight feet in height.
 - d. The associated permitted use shall obtain a minimum of 50% of the employment density targets for the Croman Mill District.
10. Public and Quasi-Public Utility Service Buildings.
- a. Facilities and structures that are accessory to a public park in the OS overlay, including but not limited to maintenance equipment storage, enclosed picnic facilities, and restrooms.
 - b. Public and Quasi-Public utility service building relating to receiving and transmitting antennas and communication towers are subject to the applicable provisions of 18.72.180.
 - c. Public and Quasi-Public utility service building shall demonstrate:
 - i. The need for the facility, present or future; and how the facility fits into the utility's Master Plan.
 - ii. The facility utilizes the minimum area required for the present and anticipated expansion.
 - iii. Compatibility of the facility with existing surrounding uses and uses allowed by the plan designation.
11. Oregon Department of Transportation Maintenance Facility and Storage Yard.
For the Oregon Department of Transportation Ashland maintenance facility and storage yard located on property within the NC overlay the following shall apply.
- a. Buildings may be enlarged or replaced subject to Basic Site Review Standards.
 - b. Are exempt from the Dimensional Regulations per 18.53.050 with the exception of minimum side and rear yard setbacks abutting a residential district and maximum height.
 - c. Are exempt from the requirements of Section VIII Croman Mill District Standards of the Ashland Site Design and Use Standards.

SECTION 18.53.050 Dimensional Regulations.

The lot and building design requirements are established in each zoning district regulation in the Dimensional Standards Table.

Croman Mill District					
Dimensional Standards	NC	MU	OE	CI	OS
Lot Size					
minimum, square feet	-----	-----	20,000	40,000	-----
Frontage					
minimum, feet	50	-----	100	100	-----
Lot Width					
minimum, feet	50	-----	100	100	-----

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Croman Mill District					
Dimensional Standards	NC	MU	OE	CI	OS
Yard Abutting a Street					
minimum yard, feet	2	2	2	2/10 ¹	-----
maximum yard abutting a street, feet ²	10	10	10	10	-----
Side Yard Abutting a Residential District					
minimum, feet	10	10	-----	-----	-----
Read Yard Abutting a Residential District					
minimum per story, feet	10	10	-----	-----	-----
Landscaping Coverage					
minimum percentage coverage	15	15	15	10	-----
Height					
minimum number of stories	2	2	2	2 ³	-----
maximum height without bonus, stories/feet ⁴	2.5/35	3/40	3/40	3/40	1/20
maximum height with bonus, stories/feet ⁴	4/50 ⁵	4/50 ⁵	5/75	5/75	-----
Solar Access					
	The solar access setback in Chapter 18.70 Solar Access does not apply in the Croman Mill District.				
Frontage Build Out on Active Edge Street					
minimum, percent	65	65	65	65	-----
Floor Area Ratio (FAR)⁶					
minimum	0.60	0.60	0.60	0.50	-----
Residential Density⁷					
maximum units per acre without bonus	30	15	-----	-----	-----
maximum units per acre with bonus	60	30			

SECTION 18.53.060 Croman Mill District Open Space Overlay.

All projects containing land identified on the Croman Mill District Land Use Overlays Map as open space shall dedicate those areas as commonly-owned or public open space. It is recognized that the master planning of the properties as part of the Croman Mill Site Redevelopment Plan imparted significant value to the land, and the required dedication of those lands within the Croman Mill district for open space and conservation purposes is proportional to the value bestowed upon the property through the change in zoning designation.

¹ Minimum yard in CI Overlay abutting an Active Edge Street is two feet, minimum yard in CI Overlay not abutting an Active Edge Street is ten feet

² Maximum yard requirements shall not apply to entry features such as alcoves, and to hardscape areas for pedestrian activities such as plazas or outside eating areas.

³ Second story shall be a minimum of 20% of the gross floor area.

⁴ Solar energy systems and parapets may be erected up to five feet above the calculated building height, and no greater than five feet above the height limited specified by the district.

⁵ In the Residential Buffer Zone, the maximum height with a bonus is 40 feet.

⁶ Plazas and pedestrian areas shall count as floor area for the purposes of meeting the minimum Floor Area Ratio (FAR).

⁷ Density of the development shall not exceed the density established by this standard. Density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions shall not apply toward the total density.

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SECTION 18.53.070 Applicability of Other Sections of the Land Use Ordinance.

Development located within the Croman Mill (CM) zoning district shall be required to meet all other applicable sections of the Land Use Ordinance, except as otherwise provided in this Chapter.

(Ord 3034, added, 08/17/10)

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CHAPTER 18.54

HC HEALTH CARE SERVICES ZONE

SECTIONS:

- 18.54.010 Purpose.**
- 18.54.020 Permitted Uses.**
- 18.54.030 Conditional Uses**
- 18.54.040 General Regulations.**
- 18.54.050 Other Regulations.**

SECTION 18.54.010 Purpose.

This district is designed to provide the type of environment suitable for the development of health related services and residential uses, and related activities, while reducing the conflicts between uses through appropriate design.

SECTION 18.54.020 Permitted Uses.

The following uses and their accessory uses are permitted outright:

- A. Residential uses, subject to the requirements of the R-2 zone.
- B. Home occupations.
- C. Offices or clinics for a dentist or doctor or allied health care providers, including, but not limited to, nurse practitioner, midwives, dieticians, psychologists, opticians, physical and occupational therapists, substance abuse counselors, chiropractors, and wellness centers, including nutritional counseling, health maintenance, and rehabilitation services.
- D. Ambulance and paramedic service.
- E. Medical laboratories.
- F. Sales or rentals of durable medical goods.
- G. Congregate care facilities, assisted living facilities, residential care facilities, and nursing homes.
- H. Any use, located on City owned property, that is specifically allowed by the Ashland Community Hospital Master Facility Plan adopted by the City of Ashland by ordinance.

SECTION 18.54.030 Conditional Uses

The following uses and their accessory uses are permitted when authorized in accordance with the Chapter on Conditional Use Permits:

- A. Limited personal service providers in the home, such as beauticians and masseurs.
- B. Travelers' accommodations, subject to the requirements of the R-2 zone.
- C. Professional offices for an accountant, architect, attorney, designer, engineer, insurance agent or adjuster, investment or management counselor or surveyor.
- D. Any medically-related use, located on City-owned property, that is not specifically allowed by the Ashland Community Hospital Master Facility Plan.
- E. Wireless Communication Facilities authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008)

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SECTION 18.54.040 General Regulations.

- A. Minimum lot area: Minimum lot area shall be 5,000 square feet.
- B. Minimum lot width: Minimum lot width shall be 50 feet.
- C. Minimum lot depth: All lots shall have a minimum depth of 80 feet. No lot depth shall be more than two and one-half times its width.
- D. Standard yard requirements: Front yard, 20 feet; side yards, six feet; rear yard, 10 feet, plus 10 feet for each story in excess of one story. The side yard of a corner lot abutting a public street shall be 10 feet. In addition, the setbacks must comply with Section 18.70 of this title which provides for solar access.
- E. Special Yards - distances between buildings.
 - 1. The distance between any principal building and accessory building shall be a minimum of 10 feet.
 - 2. An inner court providing access to a double-row dwelling group shall be a minimum of 20 feet.
- F. Maximum height: No structure shall be over 35 feet in height.
- G. Maximum coverage: Maximum lot coverage shall be 65%.

SECTION 18.54.050 Other Regulations.

Where other Ashland Municipal Code regulations do not refer to the HC zone, the standards for the R-2 zone shall apply.

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CHAPTER 18.56

OVERLAY ZONES

SECTIONS:

- 18.56.010 Purpose.**
- 18.56.020 Applicability of Other Sections of the Land Use Ordinance.**
- 18.56.030 A Airport Overlay.**
- 18.56.040 Pedestrian Place Overlay.**
- 18.56.050 Residential Overlay.**

SECTION 18.56.010 Purpose.

Overlay zones are intended to provide special regulations and standards that supplement the base zoning district and standards.

SECTION 18.56.020 Applicability of Other Sections of the Land Use Ordinance.

Development located within an overlay zone is required to meet all other applicable sections of the Land Use Ordinance, except as otherwise provided in this Chapter.

SECTION 18.56.030 A Airport Overlay.

A. **Purpose.** This overlay zone is intended to be applied to properties which lie within close proximity to the Ashland Airport where aircraft are likely to be flying at relatively low elevations. Further, the zone is intended to prevent the establishment of airspace obstructions in such areas through height restrictions and other land use controls. Application of the overlay zone does not alter the requirements of the parent zone except as specifically provided herein. The Airport Overlay applies to all property where A is indicated on the Ashland Zoning Map.

B. A Airport Overlay.

1. Permitted uses shall not include residential uses unless approved under the procedure outlined for conditional uses.
2. Maximum height of structures, trees or other airspace obstructions shall be twenty (20) feet.
3. All planning actions will require, as a condition or approval that the applicant sign an agreement with the City agreeing that airport noise is likely to increase in the future and that they waive all rights to complain about airport noise.

C. General Provisions.

1. The City may top any tree which is in excess of those maximum heights listed in Section 18.60.020, or locate appropriate lights or markers on those trees as a warning to the operators of aircraft.
2. No use shall be made of land or water within any of this zone in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and

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others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise create a hazard which may in any way endanger the landing, takeoff, or maneuvering of aircraft using the airport.

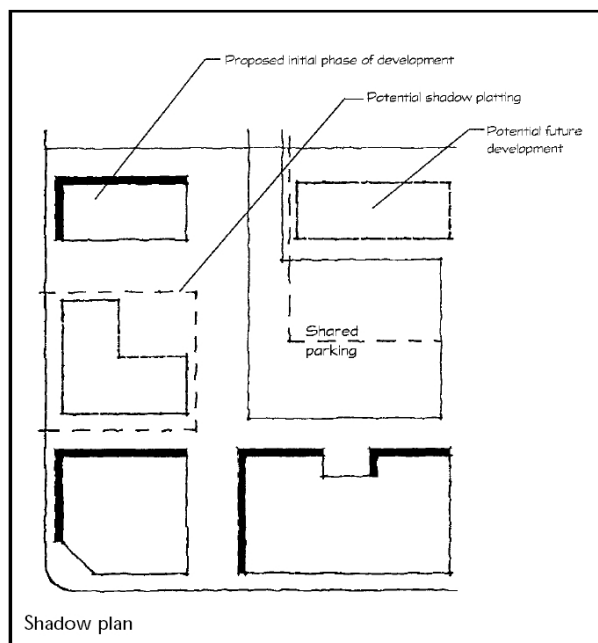
SECTION 18.56.040 PP Pedestrian Place Overlay.

- A. **Purpose of Pedestrian Place Overlay.** The Pedestrian Place Overlay is intended to direct and encourage development of small walkable nodes that provide concentrations of gathering places, housing, businesses and pedestrian amenities situated and designed in a way to encourage more walking, bicycling and transit use.
- B. **Applicability.**
1. **Location.** The Pedestrian Place Overlay applies to all property where PP is indicated on the Ashland Zoning Map.
 2. **Planning Actions.** The Pedestrian Place Overlay requirements apply to proposed development located in the Pedestrian Place Overlay that requires a planning application approval, and involves development of new structures or additions other than single-family dwellings and associated accessory structures and uses.
 3. **Other Sections of the Land Use Ordinance.** The provisions of the Pedestrian Place Overlay supplement those of the applicable base zoning district and applicable Chapter 18 requirements. Where the provisions of this Chapter conflict with comparable standards described in any other ordinance or regulation, the provisions of the Pedestrian Place Overlay shall apply.
- C. **Pedestrian Place Concept Plans.** Concept plans (i.e. site plan, development summary and building illustrations) are for the purpose of providing an example of development that conforms to the standards, and do not constitute independent approval criteria. Concept plans are attached to the end of this chapter.
- D. **Residential Zoning Districts within Pedestrian Place Overlay.**
1. **Special Permitted Uses.** In addition to the permitted uses in the base residential zoning district, the following uses and their accessory uses are permitted outright subject to the requirements of this section and the requirement of Chapter 18.72, Site Design and Use Standards.
 - a. Professional, financial, business and medical offices, and personal service establishments.
 - b. Stores, shops and offices supplying commodities or performing services.
 - c. Restaurants.
 2. **Limitations.**
 - a. The maximum gross floor area occupied by a special permitted use shall be 2,500 square feet.
 - b. Special permitted uses shall be allowed in a building or in a group of buildings including a mixture of businesses and housing. At least 50% of the total gross floor area of a building or of multiple buildings shall be designated for housing.
 - c. The development shall meet the minimum housing density requirements of the base zoning district.

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3. **Development Standards.**

- a. A building shall be setback not more than five feet from a public sidewalk unless the area is used for pedestrian activities such as plazas or outside eating areas, or for a required public utility easement.
- b. Developments shall have a minimum Floor Area Ratio (FAR) of .50. Plazas and pedestrian areas shall count as floor area for the purposes of meeting the minimum FAR. Projects including existing buildings or vacant parcels of a half an acre or greater in size shall achieve the required minimum FAR, or provide a shadow plan (see graphic) that demonstrates how development may be intensified over time to meet the required minimum FAR.



4. **Mixed-Use Buildings in Residential Zones.** Mixed-use buildings in a residential base zoning district require Site Review approval in accordance with Chapter 18.72, and are subject to the requirements of Chapter 18.72 and the following Site Design and Use Standards.

- a. Basic Site Review Standards for Commercial Development (section II-C-1)
- b. Parking Lot Landscaping and Screening Standards (section D)
- c. Street Tree Standards (section E)
- d. Exception to the Site Design and Use Standards, 18.72.090

E. **Development Standards.** In addition to the requirements of the base zoning district, the following standards shall apply.

1. **Building Setbacks.** The solar access setback in Chapter 18.70 Solar Access applies only to those lots abutting a residential zone to the north.
2. **Plazas and Landscaping Ratio.** Outdoor seating areas, plazas and other useable paved surfaces may be applied toward meeting the landscaping area requirements in Section 18.72.110, but shall not constitute more than 50% of the required area.

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SECTION 18.56.050 R Residential Overlay.

The Residential Overlay applies to all property where R is indicated on the Ashland Zoning Map. The Residential Overlay requirements are as follows.

- A. At least 65% of the total gross floor area of the ground floor, or at least 50% of the total lot area if there are multiple buildings shall be designated for permitted or special permitted uses, excluding residential.
- B. Residential densities shall not exceed 15 dwelling units per acre. For the purpose of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
- C. Residential uses shall be subject to the same setback, landscaping, and design standards as for permitted uses in the E-1 District.
- D. If the number of residential units exceeds 10, then at least 10% of the residential units shall be affordable for moderate income persons in accord with the standards established by resolution of the Ashland City Council through procedures contained in the resolution. The number of units required to be affordable shall be rounded down to the nearest whole unit.

(Ord 3052, Added, 12/16/2011)

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CHAPTER 18.61

TREE PRESERVATION AND PROTECTION

SECTIONS:

18.61.010	Purpose.
18.61.020	Definitions.
18.61.025	Heritage Trees.
18.61.030	Regulated Activities.
18.61.035	Exempt Tree Removal Activities.
18.61.042	Approval and Permit Required.
18.61.050	Submittal Requirements.
18.61.080	Criteria for Issuance of Tree Removal Permit.
18.61.084	Mitigation Required.
18.61.092	Expiration of Tree Removal Permits.
18.61.094	Conditions of Approval for Tree Removal Permits.
18.61.125	Evidence of Violation.
18.61.130	Penalties.
18.61.200	Tree Protection.
18.61.250	Performance Security.

SECTION 18.61.010 Purpose.

The City of Ashland recognizes the importance of trees to the character and beauty of Ashland as well as the role that trees have in advancing the public health, safety and welfare. The City has therefore determined that reasonable regulation of the removal of certain trees is necessary and that this regulation of trees is based upon the following general guidelines:

- A. The City recognizes that trees can provide soil stability, noise buffering, and wind protection benefits. The City of Ashland greatly values trees for their ecological importance, temperature mitigation, enhanced wildlife habitat and aesthetics.
- B. The City recognizes the special significance of heritage and distinctive trees, and values the contribution, which such trees make to the beauty and quality of life of Ashland.
- C. The City recognizes that because of the known benefits of trees, development property should be protected from unregulated removal of trees prior to the approval or' development plans. Trees on such properties should be preserved so that they may be considered for incorporation into development plans.
- D. The City recognizes that residents in single family zones should have the freedom to determine the nature of their private landscaped surroundings.
- E. The City recognizes that city-owned property and properties located in multi-family residential zones often have special landscaping circumstances, and that these special circumstances have the potential to affect significantly larger numbers of persons if unregulated. Because of this, such properties require reasonable regulation.

(Ord 2883, Added, 06/04/2002)

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SECTION 18.61.020 Definitions.

- A. **Arborist** means a person licensed by the State of Oregon State Landscape Contractors Board or Construction Contractors Board who is certified as an arborist from the International Society of Arboriculture or American Society of Consulting Arborists.
- B. **Caliper Inch** refers to a manner of expressing the diameter inches of a tree as calculated by measuring the tree's circumference and dividing by Pi (approximately 3.14159). Specially calibrated "diameter tapes" or "calipers" are used to determine caliper inches.
- C. **Dead Tree** means a tree is lifeless. Such evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.
- D. **Diameter at breast height or DBH** means the diameter of the trunk at its maximum cross section, measured 54 inches (4 1/2 feet) above ground level at the base of the trunk. On sloped lands, the measurement shall be taken on the uphill side of tree.
- E. **Dripline** means an imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.
- F. **Heritage Tree** means any tree listed on the official City of Ashland Heritage Tree list adopted by the City Council.
- G. **Immediate danger of collapse** means that the tree may already be leaning, with the; surrounding soil heaving, and/or there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree removal permit could be obtained through the non-emergency process. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment.
- H. **Person** means any individual or legal entity.
- I. **Removal** means to cut down a tree, or remove 50% or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline and/or die. "Removal" includes topping. "Removal" includes but is not limited to damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees.
- J. **Significant Tree** means a "tree" having a trunk 18 caliper inches or larger in diameter at breast height (DBH).
- K. **Staff Advisor** means the Planning Director or the Planning Director's designee.
- L. **Topping** means the severe cutting back of a tree's limbs to stubs 3 inches or larger in diameter within the tree's crown to such a degree so as to remove the natural canopy and disfigure the tree. Topping does not include the practice of "pollarding" when conducted in accordance with the standards established by the International Society of Arboriculture.

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- M. **Tree** means any woody plant having a trunk six caliper inches or larger in diameter at breast height (DBH). If a tree splits into multiple trunks above ground, but below 4.5 feet, the trunk is measured at its most narrow point beneath the split, and is considered one tree if greater than six inches DBH. Plants commonly planted as shrubs, including but not limited to English laurel, photinia, arborvitae, poison oak, English holly, and English ivy shall not be considered a "tree". Trees specifically planted and maintained as a hedge shall also not be considered a "tree".
- N. **Tree Account** means an account established by resolution of the Council for the receipt of funds to be utilized for future tree purposes, as outlined in the resolution.
- O. **Tree Removal Permit** means written authorization from the City for a tree removal to proceed as described in an application, such authorization having been given in accordance with this chapter.
- P. **Tree Protection Zone** means the area reserved around a tree or group of trees in which no grading, access, stockpiling or other construction activity shall occur as determined by the Staff Advisor based on review of the tree and site conditions.
(Ord 2951, amended, 07/01/2008; Ord 2883, added, 06/04/2002)

SECTION 18.61.025 Heritage Trees.

- A. The City of Ashland recognizes that specific trees in Ashland are deserving of special status due to distinctive form, size, age, location, species, unique qualities, or historical significance.
- B. Any person may nominate, with the written consent of the property owner, a mature tree for consideration as a Heritage Tree. This nomination shall include all information necessary for evaluation based on the items described in section A above. The Tree Commission shall review all nominations and shall make a written final recommendation to the City Council. The City Council shall review the recommendation and make the final determination for Heritage Tree status.
- C. Should the Council approve the nomination, the tree shall be included on the Heritage Tree list adopted by resolution of the City Council. The property owner shall be notified of the Council's action.
- D. Once designated, a Heritage Tree shall be subject to the applicable provisions of this ordinance.
- E. A Heritage Tree may be removed from the list by the City Council upon its own motion, or a Heritage Tree shall be removed from the list upon written request by the property owner. A request by the owner must state the reasons for removal from the list and be filed with the city recorder. The city recorder shall then remove the Heritage Tree from the list and cause to be filed with the county recording office a quitclaim deed quitclaiming any interest of the city resulting from the listing. (Ord 2915 S1 2005; Ord 2915, amended, 01/04/2005; Ord 2883, added, 06/04/2002)

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SECTION 18.61.030 Regulated Activities.

- A. All tree removal and tree topping activities, unless exempted below, shall be carried out in accordance with the requirements of this chapter.
- B. No person who is required to install or maintain tree protection measures pursuant this chapter shall do any development activities including, but not limited to clearing, grading, excavation or demolition work on a property or site which requires a planning action without approved tree protection measures properly installed and maintained pursuant to this Chapter. (Ord 2883, added, 06/04/2002)

SECTION 18.61.035 Exempt Tree Removal Activities.

The following activities are exempt from the requirement for tree removal permits:

- A. Those activities associated with the establishment or alteration of any public park under the Ashland Parks and Recreation Commission. However, the Ashland Parks and Recreation Department shall provide an annual plan in January to the Tree Commission outlining proposed tree removal and topping activities, and reporting on tree removal and topping activities that were carried out in the previous year.
- B. Removal of trees in single family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures, except as otherwise regulated by the Physical and Environmental Constraints ordinance (18.62).
- C. Removal of trees in multi-family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures, except as otherwise regulated by the Physical and Environmental Constraints ordinance (18.62).
- D. Removal of trees less than 6" DBH in any zone, excluding those trees located within the public right of way or required as conditions of approval with landscape improvements for planning actions.
- E. Removal of trees less than 18" DBH on any public school lands, Southern Oregon University, and other public land, excluding Heritage trees.
- F. Removal of trees within the Wildfire Lands area of the City, as defined on adopted maps, for the purposes of wildfire fuel management, and in accord with the requirements of the Physical and Environmental Constraints Chapter- 18.62.
- G. Removal of dead trees.
- H. Those activities associated with tree trimming for safety reasons, as mandated by the Oregon Public Utilities Commission, by the City's Electric and Telecommunication Utility. However, the Utility shall provide an annual plan to the Tree Commission outlining tree trimming activities and reporting on tree trimming activities that were carried out in the previous year. Tree trimming shall be done, at a minimum, by a Journeyman Tree Trimmer, as defined by the Utility, and will be done in conformance and to comply with OPUC regulations.

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- I. Removal of street trees within the public right-of-way subject to street tree removal permits in AMC 13.16. (Ord 2951, amended, 07/01/2008; Ord 2883, added, 06/04/2002)

SECTION 18.61.042 Approval and Permit Required.

A person who desires to remove a tree, not otherwise exempted in 18.61.035, shall first apply for and receive one of the following tree removal permits before tree removal occurs:

A. TREE REMOVAL - EMERGENCY PERMIT:

1. If the condition of a tree presents an immediate danger of collapse, as defined in 18.61.020, and represents a clear and present hazard to persons or property, an emergency tree removal permit may be issued and the payment of a fee may be waived.
2. Emergency tree removal permits are approved by the Staff Advisor. The Staff Advisor may require the applicant to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse.

B. TREE REMOVAL - VERIFICATION PERMIT:

1. If a site has received development approval through a planning action consistent with the standards of this chapter, then a Verification Permit shall be required for those trees approved for removal through that process. To obtain a verification permit, an applicant must clearly identify on the property the trees to be removed by tying pink tagging tape around each tree and submitting a site plan indicating the location of the requested trees. Vegetation 4" to 6" DBH that is to be removed shall also be marked with pink tagging tape. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application. The Staff Advisor will then verify that the requested trees match the site plan approved with the planning action. The City shall require the applicant to mitigate for the removal of each tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the original development permit.
2. Verification permits shall be required prior to the issuance of an excavation permit or building permit and prior to any site disturbance and/or storage of materials on the subject property.

C. TOPPING PERMIT: Topping is an injurious pruning practice which may lead to stress, disease, and decay in trees. It should be avoided whenever an alternative exists.

1. A topping permit may be issued only if the following apply:
 - a. A utility, public agency, or other person who routinely tops trees in furtherance of public safety, may apply for a topping permit pursuant to this section based upon an arborist's report establishing a methodology for topping in compliance with this subsection.
 - b. Trees under utility wires may be topped only where other pruning techniques are impractical.
 - c. When authorized as part of a Tree Removal-Staff Permit.
2. The City, in granting approval for tree removal in an open space or undeveloped area, may allow a tree to be topped to a designated height in order to maintain a "snag" for wildlife habitat.

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D. TREE REMOVAL - PERMIT:

1. Tree Removal- Permits are required for the following activities:
 - a. Removal of trees greater than 6" DBH on any private lands zoned C-I, E-I, M-I, CM or HC.
 - b. Removal of trees greater than 6" DBH on multi-family residentially zoned lots (R-2, R-3, and R-1-3.5) not occupied solely by a single family detached dwelling.
 - c. Removal of significant trees on vacant property zoned for residential purposes including but not limited to R-I, RR, WR, and NM zones.
 - d. Removal of significant trees on lands zoned SOU, on lands under the control of the Ashland School District, or on lands under the control of the City of Ashland.
2. Applications for Tree Removal - Permits shall be reviewed and approved by the Staff Advisor pursuant to AMC 18.61.080 (Approval Criteria) and 18.108.040 (Type Procedure). If the tree removal is part of another planning action involving development activities, the tree removal application, if timely filed, shall be processed concurrently with the other planning action.

(Ord 2951, amended, 07/01/2008; Ord 2915, amended, 01/04/2005; Ord 2883, added, 06/04/2002; Ord 3036, amended, 08/17/2010)

SECTION 18.61.050 Submittal Requirements.

- A. An application for all Tree Removal and Tree Topping Permits shall include:
 - a. Plans drawn to scale containing the number, size, species and location of the trees proposed to be removed or topped on a site plan of the property.
 - b. The anticipated date of removal or topping.
 - c. A statement of the reason for removal or topping.
 - d. Information concerning proposed landscaping or planting of new trees to replace the trees to be removed, and
 - e. Evidence that the trees proposed for removal or topping have been clearly identified on the property for visual inspection.
 - f. A Tree Protection Plan that includes trees located on the subject site that are not proposed for removal, and any off-site trees where drip lines extend into proposed landscaped areas on the subject site. Such plans shall conform to the protection requirements under Section 18.61.200.
 - g. Any other information reasonably required by the City.
- B. The applicant shall have the burden of proving that the application complies with the criteria for approval of the applicable class of permit. If the application is for a Tree Removal-Staff Permit, the applicant shall submit specific written findings and evidence addressing the criteria in section 18.61.080 for issuance of a Tree Removal-Staff Permit.
- C. Misrepresentation of any fact necessary for the City's determination for granting a tree removal permit shall invalidate the permit. The City may at any time, including after a removal has occurred, independently verify facts related to a tree removal request and, if found to be false or misleading, may invalidate the permit and process the removal as a violation. Such misrepresentation may relate to matters including, without limitation, tree size, location, health or hazard condition, justification for issuance of permit, or owner's authorized signature. (Ord 2951, amended, 07/01/2008; Ord 2883, Added, 06/04/2002)

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SECTION 18.61.080 Criteria for Issuance of Tree Removal Permit.

An applicant for a Tree Removal Permit shall demonstrate that the following criteria are satisfied. The Staff Advisor may require an arborist's report to substantiate the criteria for a permit.

- A. Hazard Tree: The Staff Advisor shall issue a tree removal permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.
1. A hazard tree is a tree that is physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within public rights of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated or the damage alleviated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.
 2. The City may require the applicant to mitigate for the removal of each hazard tree pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.
- B. Tree that is Not a Hazard: The City shall issue a tree removal permit for a tree that is not a hazard if the applicant demonstrates all of the following:
1. The tree is proposed for removal in order to permit the application to be consistent with other applicable Ashland Land Use Ordinance requirements and standards, including but not limited to applicable Site Design and Use Standards and Physical and Environmental Constraints. The Staff Advisor may require the building footprint of the development to be staked to allow for accurate verification of the permit application; and
 2. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and
 3. Removal of the tree will not have a significant negative impact on the tree densities, sizes, canopies, and species diversity within 200 feet of the subject property.
The City shall grant an exception to this criterion when alternative to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. Nothing in this section shall require that the residential density be reduced below the permitted density allowed by the zone. In making this determination, the City may consider alternative site plans or placement of structures of alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with the other provisions of the Ashland Land Use Ordinance.
 4. The City shall require the applicant to mitigate for the removal of each tree granted approval pursuant to AMC 18.61.084. Such mitigation requirements shall be a condition of approval of the permit.

SECTION 18.61.084 Mitigation Required.

An applicant shall be required to provide mitigation for any tree approved for removal. The mitigation requirement shall be satisfied by one or more of the following:

- A. Replanting on site. The applicant shall plant either a minimum 1 ½-inch caliper healthy and well-branched deciduous tree or a 5-6 foot tall evergreen tree for each tree removed. The

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replanted tree shall be of a species that will eventually equal or exceed the removed tree in size if appropriate for the new location. Larger trees may be required where the mitigation is intended, in part, to replace a visual screen between land uses. "Suitable" species means the tree's growth habits and environmental requirements are conducive to the site, given the existing topography, soils, other vegetation, exposure to wind and sun, nearby structures, overhead wires, etc. The tree shall be planted and maintained according to the specifications in the City Tree Planting and Maintenance Guidelines as approved by the City Council.

- B. Replanting off site. If in the City's determination there is insufficient available space on the subject property, the replanting required in subsection A shall occur on other property in the applicant's ownership or control within the City, in an open space tract that is part of the same subdivision, or in a City owned or dedicated open space or park. Such mitigation planting is subject to the approval of the authorized property owners. If planting on City owned or dedicated property, the City may specify the species and size of the tree. Nothing in this section shall be construed as an obligation of the City to allow trees to be planted on City owned or dedicated property.
- C. Payment in lieu of planting. If in the City's determination no feasible alternative exists to plant the required mitigation, the applicant shall pay into the tree account an amount as established by resolution of the City Council.
- D. An approved mitigation plan shall be fully implemented within one year of a tree being removed unless otherwise set forth in a tree removal application and approved in the tree removal permit. (Ord 2951, amended, 07/01/2008; Ord 2883, added, 06/04/2002)

SECTION 18.61.092 Expiration of Tree Removal Permits.

Tree removal permits shall remain valid for a period of one year from the date of issuance or date of final decision by a hearing body, if applicable. A 30 day extension shall be automatically granted by the Staff Advisor if requested in writing before the expiration of the permit. Permits that have lapsed are void. Trees removed after a tree removal permit has expired shall be considered a violation of this Chapter. (Ord 2951, amended, 07/01/2008; Ord 2883, added, 06/04/2002)

SECTION 18.61.094 Conditions of Approval for Tree Removal Permits.

- A. The City may impose conditions of approval on any Tree Removal Permit if the condition is reasonably related to preventing, eliminating or mitigating a negative impact or potential negative impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal.
- B. Conditions of approval may include, but are not limited to:
 - 1. Requiring modifications in the location, design or intensity of a development or activities on a site or to require or prohibit certain construction methods. Modifications may result in a decrease in size of residential or commercial structures, but modifications shall not reduce the density of residential development below the permitted density allowed by the zone;
 - 2. Requiring vegetation not requiring a tree removal permit to remain in place or be planted.

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3. Requiring the removal of injurious or noxious vegetation (such as English Ivy) from other trees on the property. (Ord 2883, added, 06/04/2002)

SECTION 18.61.125 Evidence of Violation.

- A. If a tree is removed without a Tree Removal Permit, a violation shall be determined by measuring the stump. A stump that is 8 caliper inches or more in diameter shall be considered initial evidence of a violation of this chapter.
- B. Removal of the stump of a tree removed without a tree removal permit prior to the determination provided in subsection A of this section is a violation of this chapter.
- C. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.
- D. Tree removal or topping caused by natural weather conditions shall not be deemed a violation of this chapter and shall be exempt from all penalties set forth in AMC 18.61.130.
(Ord 2883, added, 06/04/2002)

SECTION 18.61.130 Penalties.

- A. Fine. A violation of any provision of this chapter, a permit issued under this chapter or any condition of a permit issued under this chapter shall be an infraction as defined by AMC 1.08.020. and punishable by a fine as set forth in that section. The removal of a tree in violation of this chapter, in violation of a permit or any condition of a permit issued under this chapter shall be a separate offense for each tree. Failure to comply with the provisions of this chapter or a permit or any condition of a permit issued under this chapter shall be a separate offense each day the failure to comply continues.
- B. Enforcement Fee. In addition to any fine, the court may impose an enforcement fee as restitution for the enforcement costs incurred by the City. This fee may be imposed upon any person who violates any provision of this chapter or who violates any permit or condition of any issued under this chapter. The fee shall be in an amount established by resolution of the city council.
- C. Restoration fee. In addition to any fine and enforcement fee, the court may impose a restoration fee as restitution to the city for restoring the tree. This fee may be imposed upon any person who violates any provision of this chapter or who violates any permit or condition of any permit.
 1. The fee shall be paid into the City's Tree Account and shall be a standard fee per caliper inch for the total number of caliper inches of the tree damaged or removed in violation of this chapter. The standard fee shall be in an amount as established by resolution of the City Council.
 2. The court may require the person to pay into the City's Tree Account an increased fee per caliper inch or pay for the value of the tree, whichever is greater, if any of the following apply:
 - a. The person has committed a previous violation of a provision of this chapter, or
 - b. Tree protection measures as required by this chapter were not installed or maintained, or

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- c. The tree removed or damaged was
 - (1) 18 caliper inches in diameter or greater;
 - (2) a designated Heritage Tree;
 - (3) expressly protected or required to be preserved as a condition of approval of a development permit pursuant to the Ashland Zoning or Development Codes or Standards; or
 - (4) located on public right of way, City owned or dedicated property, a public or private open space area or conservation easement.
 - 3. The value of a tree under this section shall be determined by an Arborist in accordance with the methods set forth in the "Guide for Plant Appraisal" an official publication of the International Society of Arboriculture.
- D. Injunction. Upon request of the Staff Advisor, the City Attorney may, or upon order of the City Council, the City Attorney shall institute appropriate action in any court to enjoin any violation of this chapter or any violation of a permit or condition of a permit issued under this chapter.
- E. Arborist Report and Required Treatment. Upon request by the City, a person who violates any provision of this chapter shall submit a report prepared by an arborist to evaluate the damage to a tree and/or make recommendations to remedy the violation. The City upon evaluating these recommendations, may, at the City's discretion, require that the recommended measures be implemented.
- F. Cumulative Remedies. The rights, remedies, and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law. (Ord 2883, added, 06/04/2002)

SECTION 18.61.200 Tree Protection.

Tree Protection as required by this section is applicable to any planning action or building permit.

- A. Tree Protection Plan Required.
- 1. A Tree Protection Plan approved by the Staff Advisor shall be required prior to conducting any development activities including, but not limited to clearing, grading, excavation, or demolition work on a property or site, which requires a planning action or building permit.
 - 2. In order to obtain approval of a Tree Protection Plan; an applicant shall submit a plan to the City, which clearly depicts all trees to be preserved and/or removed on the site. The plan must be drawn to scale and include the following:
 - a. Location, species, and diameter of each tree on site and within 15 feet of the site;
 - b. Location of the drip line of each tree;
 - c. Location of existing and proposed roads, water, sanitary and storm sewer, irrigation, and other utility lines/facilities and easements;
 - d. Location of dry wells, drain lines and soakage trenches;
 - e. Location of proposed and existing structures;
 - f. Grade change or cut and fill during or after construction;
 - g. Existing and proposed impervious surfaces;
 - h. Identification of a contact person and/or arborist who will be responsible for

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- implementing and maintaining the approved tree protection plan; and
- i. Location and type of tree protection measures to be installed per AMC 18.61.230.
3. For development requiring a planning action, the Tree Preservation Plan shall include an inventory of all trees on site, their health or hazard condition, and recommendations for treatment for each tree.

B. Tree Protection Measures Required.

1. Except as otherwise determined by the Staff Advisor, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and shall be removed only after completion of all construction activity, including landscaping and irrigation installation.
2. Chain link fencing, a minimum of six feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater, and at the boundary of any open space tracts, riparian areas, or conservation easements that abut the parcel being developed.
3. The fencing shall be flush with the initial undisturbed grade.
4. Approved signs shall be attached to the chain link fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the Staff Advisor for the project.
5. No construction activity shall occur within the tree protection zone, including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles.
6. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or m-off.
7. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless approved by the Staff Advisor.

- C. Inspection. The applicant shall not proceed with any construction activity, except installation of erosion control measures, until the City has inspected and approved the installation of the required tree protection measures and a building and/or grading permit has been issued by the City. (Ord 2883, added, 06/04/2002)

SECTION 18.61.250 Performance Security.

The City may require the permittee to post with the City a bond, or other suitable collateral as determined by the city administrator, ensuring the satisfactory completion and maintenance of the tree protection plan. Suitable collateral may be in the form of letters of credit, certificates of deposit, cash bond, or bonds issued by an insurance company legally doing business in the State of Oregon. (Ord 2883, added, 06/04/2002)

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CHAPTER 18.62

PHYSICAL & ENVIRONMENTAL CONSTRAINTS

SECTIONS:

18.62.010	Purpose and Intent.
18.62.020	Where Regulations Apply.
18.62.030	Definitions.
18.62.040	Approval and Permit Required.
18.62.050	Land Classifications.
18.62.060	Official Maps.
18.62.070	Development Standards for Flood Plain Corridor Lands.
18.62.080	Development Standards for Hillside Lands.
18.62.090	Development Standards for Wildfire Lands.
18.62.100	Development Standards for Severe Constraint Lands.
18.62.110	Density Transfer.
18.62.130	Penalties.

SECTION 18.62.010 Purpose and Intent.

The purpose of this Chapter is to provide for safe, orderly and beneficial development of districts characterized by diversity of physiographic conditions and significant natural features; to limit alteration of topography and reduce encroachment upon, or alteration of, any natural environment and; to provide for sensitive development in areas that are constrained by various natural features. Physiographic conditions and significant natural features can be considered to include, but are not limited to: slope of the land, natural drainage ways, wetlands, soil characteristics, potential landslide areas, natural and wildlife habitats, forested areas, significant trees, and significant natural vegetation.

(Ord 2808, Added, 12/02/1997)

SECTION 18.62.020 Where Regulations Apply.

The type of regulation applicable to the land depends upon the classification in which the land is placed, as provided in Section 18.62.050. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. It is likely that there will be some overlap between the regulations in this chapter and those in Chapter 18.63 Water Resources. Where two (2) regulations are in conflict, the most stringent shall govern.

(Ord 2998, Amended, 12/15/2009; Ord 2808, Added, 12/02/1997)

SECTION 18.62.030 Definitions.

The following terms are hereby defined as they apply to this chapter:

A. **Architect** - An architect licensed by the State of Oregon.

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- B. **Average Slope** - Average slope for a parcel of land or for an entire project, for the purposes of determining the area to remain in a natural state shall be calculated before grading using the following formula:

$$S = \frac{.00229(I)(L)}{A}$$

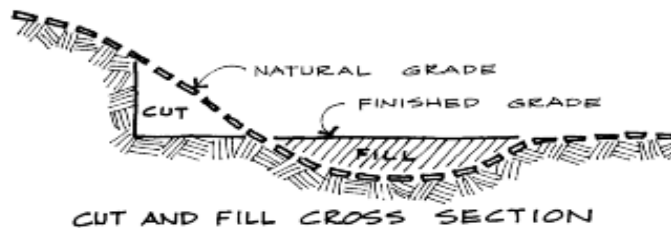
where "S" is the average percent of slope; ".00229" is the conversion factor for square feet; "I" is the contour interval in feet; "L" is the summation of length of the contour lines in scale feet; and "A" is the area of the parcel or project in acres.

- C. **Base Flood** – Means the flood having a one percent chance of being equaled or exceeded in any given year.
- D. **Base Flood Elevation (BFE)** – Means the water surface elevation during the base flood in relation to a specific datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.
- E. **Building Code** – Means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020(2), 455.020(2), 455.610, 455.680, 460.085, 460.360, 479.730(1) or 480.545, but not include regulations adopted by the State Fire Marshall pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.
- F. **Buildable Area** - That portion of an existing or proposed lot that is free of building restrictions. For the purpose of this ordinance, a buildable area cannot contain any setback areas, easements, and similar building restrictions, and cannot contain any land that is identified as Flood Plain Corridor Lands, or any land that is greater than 35% slope.
- G. **Cohesive Soils** - Residual or transported soils, usually originating from parent rock which contains significant quantities of minerals which weather to clay. Cohesive soils have a Plasticity Index of ten or more, based on laboratory testing according to AASHTO methods, or a site-specific scientific analysis of a particular soil material.
- H. **Development** - Alteration of the land surface by:
1. Earth-moving activities such as grading, filling, stripping, or cutting involving more than 20 cubic yards on any lot, or earth-moving activity disturbing a surface area greater than 1000 sq. ft. on any lot;
 2. Construction of a building, road, driveway, parking area, or other structure; except that additions to existing buildings of less than 300 sq. ft. to the existing building footprint shall not be considered development for Section 18.62.080.
 3. Culverting or diversion of any stream designated by this chapter.
- I. **Designer** - A person not registered as an architect or engineer, approved to plan and design single family homes and other buildings defined as exempt by the building code.
- J. **Engineer** - A registered professional engineer licensed by the State of Oregon.
- K. **Engineering Geologist** - A registered professional engineering geologist licensed by the State of Oregon.
- L. **Flood or Flooding** – Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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1. the overflow of inland or tidal waters; or
2. the unusual and rapid accumulation or runoff of surface waters from any source.

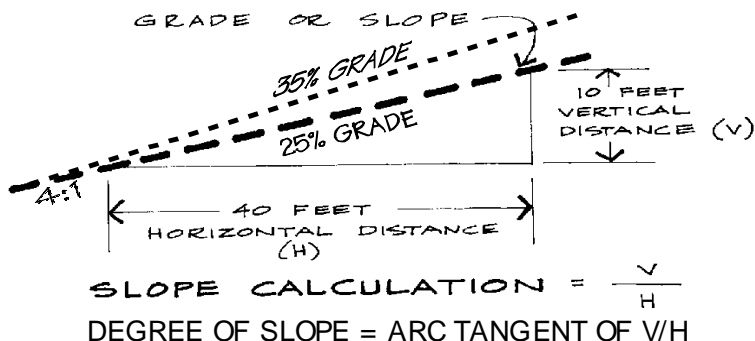
- M. **Flood Insurance Rate Map (FIRM)** – Means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.
- N. **Flood Insurance Study (FIS)** – Means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.
- O. **Floodway Channel** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- P. **Geotechnical Expert** - An engineering geologist or an engineer with demonstrable expertise in geologic hazards evaluation and geotechnical engineering.
- Q. **Gully** - A drainage incision, commonly caused by erosion, which does not experience regular or seasonal stream flow, but does act as a channel for runoff during periods of high rainfall.
- R. **Landscape Professional** - Arborist certified by the International Society of Arboriculture, landscape architect licensed by the State of Oregon, or other expert with demonstrable expertise in tree and erosion control vegetation maintenance, and erosion control vegetation methods.
- S. **Natural Grade** - The elevation of the ground level in its natural state, before construction, filling, or excavation. (see graphic)



- T. **Natural State** - All land and water that remains undeveloped and undisturbed. This means that grading, excavating, filling and/or the construction of roadways, driveways, parking areas, and structures are prohibited. Incidental minor grading for hiking trails, bicycle paths, picnic areas and planting and landscaping which is in addition to and enhances the natural environment is permitted. Incidental brush removal for lot maintenance and ecosystem health is permitted. Further, vegetation removal for the purposes of wildfire control in conjunction with an approved fire prevention and control plan shall also be permitted.
- U. **Non-cohesive Soils** - Residual or transported soils containing no or very little clay, usually from crystalline granitic parent rock. Non-cohesive soils have a Plasticity Index of less than ten, based on laboratory testing according to AASHTO methods, or a published scientific analysis of a particular soil type.

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- V. **Professional Arborist** - Arborist certified by the International Society of Arboriculture and licensed by the State of Oregon State Landscape Contractors Board or Construction Contractors Board, or landscape architect licensed by the State of Oregon.
- W. **Riparian** - That area associated with a natural water course including its wildlife and vegetation.
- X. **Slope** - The deviation of a surface from the horizontal, usually expressed in percent. (see graphic)



- Y. **Stripping** - Any activity which significantly disturbs vegetated or otherwise stabilized soil surface, including clearing and grubbing operations.
- Z. **Tree Removal** - The following activities are defined as tree removal:
1. The removal of three or more living trees of over six inches diameter at breast height (d.b.h.), or the removal of five percent of the total number of living (or dead trees) over six inches d.b.h., whichever is greater, on any lot within five year period, or any form of commercial logging;
 2. The removal of one or more living conifers greater than two feet d.b.h., or living broadleaf trees greater than one foot d.b.h.
- AA. **Wildfire** - Fire caused by combustion of native vegetation, commonly referred to as forest fire or brush fire.

(Ord 2808, Added, 12/02/1997; Ord 3045, Amended, 04/15/2011)

SECTION 18.62.040 Approval and Permit Required.

A Physical Constraints Review Permit is required for the following activities:

- A. Development, as defined in 18.62.030.H, in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraint Land. In addition all activities located within an area of special flood hazard are subject to the provisions for a Development Permit under 15.10 Flood Damage and Prevention Regulations.
- B. Tree removal, as defined in 18.62.030.Z, in areas identified as Flood Plain Corridor Land.
- C. Commercial logging, in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraint Land.

(Ord 2998, Amended, 12/15/2009; Ord 2951, Amended, 07/01/2008; Ord 2834, Amended, 11/03/1998, Section 18.62.040 J "deleted"; Ord 2808, Added, 12/02/1997, Ord 3045, Amended, 04/15/2011)

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- D. Tree removal, in areas identified as Hillside Land and Severe Constraint Land, except that a permit need not be obtained for tree removal that is not associated with development, and done for the purposes of wildfire management and carried out in accord with a Fire Prevention and Control Plan approved by the Fire Chief.
- E. If a development is part of a Site Review, Performance Standards Development, Conditional Use Permit, Subdivision, Partition, or other Planning Action, then the Review shall be conducted simultaneously with the Planning Action.
- F. If a development is exclusive of any other Planning Action, as noted in Subsection B, then the Physical Constraints Review shall be processed as a Staff Permit.
- G. Where it appears that the proposal is part of a more extensive development that would require a master site plan, or other planning action, the Staff Advisor shall require that all necessary applications be filed simultaneously.
- H. Plans Required. The following plans shall be required for any development requiring a Physical Constraints Review:
 - 1. The plans shall contain the following:
 - a. Project name.
 - b. Vicinity map.
 - c. Scale (the scale shall be at least one inch equals 50 feet or larger) utilizing the largest scale that fits on 22" x 34" paper. Multiple plans or layers shall be prepared at the same scale, excluding detail drawings. The Staff Advisor may authorize different scales and plan sheet sizes for projects, provided the plans provide sufficient information to clearly identify and evaluate the application request.
 - d. North arrow.
 - e. Date.
 - f. Street names and locations of all existing and proposed streets within or on the boundary of the proposed development.
 - g. Lot layout with dimensions for all lot lines.
 - h. Location and use of all proposed and existing buildings, fences and structures within the proposed development. Indicate which buildings are to remain and which are to be removed.
 - i. Location and size of all public utilities affected by the proposed development.
 - j. Location of drainage ways or public utility easements in and adjacent to the proposed development. Location of all other easements.
 - k. Topographic map of the site at a contour interval of not less than two feet nor greater than five feet. The topographic map shall also include a slope analysis, indicating buildable areas, as shown in the graphic.
 - l. Location of all parking areas and spaces, ingress and egress on the site, and on-site circulation.
 - m. Accurate locations of all existing natural features including, but not limited to, all trees as required in 18.62.080.D.1, including those of a caliper equal to or greater than six inches d.b.h., native shrub masses with a diameter of ten feet or greater, natural drainage, swales, wetlands, ponds, springs, or creeks on the site, and outcroppings of rocks, boulders, etc. Natural features on adjacent properties potentially impacted by the proposed development shall also be included, such as trees with driplines extending across property lines. In forested areas, it is necessary to identify only

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- those trees which will be affected or removed by the proposed development. Indicate any contemplated modifications to a natural feature.
- n. The proposed method of erosion control, water runoff control, and tree protection for the development as required by this chapter.
 - o. Building envelopes for all existing and proposed new parcels that contain only buildable area, as defined by this chapter.
 - p. Location of all irrigation canals and major irrigation lines.
 - q. Location of all areas of land disturbance, including cuts, fills, driveways, building sites, and other construction areas. Indicate total area of disturbance, total percentage of project site proposed for disturbance, and maximum depths and heights of cuts and fill.
 - r. Location for storage or disposal of all excess materials resulting from cuts associated with the proposed development.
 - s. Applicant name, firm preparing plans, person responsible for plan preparation, and plan preparation dates shall be indicated on all plans.
 - t. Proposed timeline for development based on estimated date of approval, including completion dates for specific tasks.
2. Additional plans and studies as required in Sections 18.62.070, 18.62.080, 18.62.090 and 18.62.100 of this chapter.
- I. Criteria for approval. A Physical Constraints Review Permit shall be issued by the Staff Advisor when the Applicant demonstrates the following:
1. Through the application of the development standards of this chapter, the potential impacts to the property and nearby areas have been considered, and adverse impacts have been minimized.
 2. That the applicant has considered the potential hazards that the development may create and implemented measures to mitigate the potential hazards caused by the development.
 3. That the applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The Staff Advisor or Planning Commission shall consider the existing development of the surrounding area, and the maximum permitted development permitted by the Land Use Ordinance.

(Ord 2834 S1, 1998; Ord 2951, amended, 07/01/2008; Ord. 2834, Amended, 11/03/1998, Section 18.62.040 J "deleted"; Ord 2808, Added, 12/02/1997)

SECTION 18.62.050 Land Classifications.

The following factors shall be used to determine the classifications of various lands and their constraints to building and development on them:

- A. Flood Plain Corridor Lands - Lands with potential stream flow and flood hazard. The following lands are classified as Flood Plain Corridor Lands:
1. All land contained within the 100 year Flood Plain as defined by the Federal Insurance Administration and identified in the Flood Insurance Map (FIRM) adopted by the Council as provided for in Chapter 15.10 of the Ashland Municipal Code.
 2. All land within the area defined as Flood Plain Corridor Land in maps adopted by the Council as provided for in Section 18.62.060.
 3. All lands which have physical or historical evidence of flooding in the historical past.

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4. All areas within 20 feet (horizontal distance) of any stream identified as a Riparian Preservation Creek on the Physical and Environmental Constraints Floodplain Corridor Lands map adopted pursuant to Section 18.62.060.
 5. All areas within ten feet (horizontal distance) of any stream identified as a Land Drainage Corridor on the Physical and Environmental Constraints Floodplain Corridor Lands maps adopted pursuant to Section 18.62.060.
- B. Hillside Lands - Hillside Lands are lands which are subject to damage from erosion and slope failure, and include areas which are highly visible from other portions of the city. The following lands are classified as Hillside Lands:
1. All areas defined as Hillside Lands on the Physical Constraints Overlay map and which have a slope of 25% or greater.
- C. Wildfire Lands - Lands with potential of wildfire. The following lands are classified as Wildfire Lands:
1. All areas defined as wildfire lands on the Physical Constraints Overlay map.
- D. Severe Constraint Lands - Lands with severe development characteristics which generally limit normal development. The following lands are classified as Severe Constraint Lands:
1. All areas which are within the floodway channels, as defined in Chapter 15.10.
 2. All lands with a slope greater than 35%.
- E. Classifications Cumulative. The above classifications are cumulative in their effect and, if a parcel of land falls under two or more classifications, it shall be subject to the regulations of each classification. Those restrictions applied shall pertain only to those portions of the land being developed and not necessarily to the whole parcel.
- (Ord 2998, Amended, 12/15/2009; Ord 2951, Amended, 7/01/2008; Ord 2808, Added, 12/02/1997, Ord 3045, Amended 04/15/2011)

SECTION 18.62.060 Official Maps.

- A. The City Council shall adopt official maps denoting the above identified areas. Substantial amendments of these maps shall be a Type 3 procedure.
- B. Minor amendments of the maps to correct mapping errors when the amendments are intended to more accurately reflect the mapping criteria contained in this chapter or in the findings of the Council in adopting an official map may be processed as a Type 1 procedure.
- (Ord 2808, Added, 12/02/1997)

SECTION 18.62.070 Development Standards for Flood Plain Corridor Lands.

For all land use actions which could result in development of the Flood Plain Corridor, the following is required in addition to any requirements of Chapter 15.10:

- A. Standards for fill in Flood Plain Corridor Lands:
1. Fill shall be designed as required by the Oregon Structural Specialty Code (OSSC), and Oregon Residential Specialty Code (ORSC), where applicable.
 2. The toe of the fill shall be kept at least ten feet outside of floodway channels, as defined in Section 15.10, and the fill shall not exceed the angle of repose of the material used for fill.
 3. The amount of fill in the Flood Plain Corridor shall be kept to a minimum. Fill and other

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material imported from off the lot that could displace floodwater shall be limited to the following:

- a. Poured concrete and other materials necessary to build permitted structures on the lot.
 - b. Aggregate base and paving materials, and fill associated with approved public and private street and driveway construction.
 - c. Plants and other landscaping and agricultural material.
 - d. A total of 50 cubic yards of other imported fill material.
 - e. The above limits on fill shall be measured from April 1989, and shall not exceed the above amounts. These amounts are the maximum cumulative fill that can be imported onto the site, regardless of the number of permits issued.
4. If additional fill is necessary beyond the permitted amounts in (3) above, then fill materials must be obtained on the lot from cutting or excavation only to the extent necessary to create an elevated site for permitted development. All additional fill material shall be obtained from the portion of the lot in the Flood Plain Corridor.
5. Adequate drainage shall be provided for the stability of the fill.
6. Fill to raise elevations for a building site shall be located as close to the outside edge of the Flood Plain Corridor as feasible.
- B. Stream crossing for streets, access or utilities of any waterway or stream identified on the official maps adopted pursuant to Section 18.62.060 must be designed by an engineer. Stream crossings shall be designed to the standards of Chapter 15.10, or where no floodway has been identified, to pass a one hundred (100) year flood without any increase in the upstream flood height elevation. The engineer shall consider in the design the probability that the crossing will be blocked by debris in a severe flood, and accommodate expected overflow. The crossing shall be at right angles to the stream channel to the greatest extent possible. Fill for stream crossings shall be kept to the minimum necessary to achieve property access, but is exempt from the limitations in Section (A) above.
- C. Non-residential structures shall be flood-proof to the standards in Chapter 15.10 to one foot above the elevation contained in the maps adopted by Chapter 15.10, or up to the elevation contained in the official maps adopted by Section 18.62.060, whichever height is greater. Where no specific elevations exist, then they must be flood-proofed to an elevation of ten feet above the stream channel on Ashland, Bear or Neil Creek; to five feet above the stream channel on all other Riparian Preservation Creeks identified on the official maps adopted pursuant to Section 18.62.060; and three feet above the stream channel on all other Land Drainage Corridors identified on the official maps adopted pursuant to Section 18.62.060.
- D. All residential structures shall be elevated so that the lowest habitable floor shall be raised to one foot above the elevation contained in the maps adopted in Chapter 15.10, or to the elevation contained in the official maps adopted pursuant to Section 18.62.060, whichever height is greater. Where no specific elevations exist, then they must be constructed at an elevation of ten feet above the stream channel on Ashland, Bear, or Neil Creek; to five feet above the stream channel on all other Riparian Preservation Creeks identified on the official maps adopted pursuant to Section 18.62.060; and three feet above the stream channel on all other Land Drainage Corridors identified on the official maps adopted pursuant to Section 18.62.060, or one foot above visible evidence of high flood water flow, whichever is greater. The elevation of the finished lowest habitable floor shall be certified to the City by an engineer or surveyor prior to issuance of a certificate of occupancy for the structure.

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- E. To the maximum extent feasible, structures shall be placed on other than Flood Plain Corridor Lands. In the case where development is permitted in the Flood Plain Corridor area, then development shall be limited to that area which would have the shallowest flooding.
- F. Existing lots with buildable land outside the Flood Plain Corridor shall locate all residential structures outside the Corridor Land, unless 50% or more of the lot is within the Flood Plain Corridor. For residential uses proposed for existing lots that have more than 50% of the lot in Corridor Land, structures may be located on that portion of the Flood Plain Corridor that is two feet or less below the flood elevations on the official maps, but in no case closer than 20 feet to the channel of a Riparian Preservation Creek identified on the official maps adopted pursuant to Section 18.62.060. Construction shall be subject to the requirements in paragraph D above.
- G. New non-residential uses may be located on that portion of Flood Plain Corridor Lands that equal to or above the flood elevations on the official maps adopted in Section 18.62.060. Second story construction may be cantilevered or supported by pillars that will have minimal impact on the flow of floodwaters over the Flood Plain Corridor for a distance of 20 feet if it does not impact riparian vegetation, and the clearance from finished grade is at least ten feet in height. The finished floor elevation may not be more than two feet below the flood corridor elevations.
- H. All lots modified by lot line adjustments, or new lots created from lots which contain Flood Plain Corridor Land must contain a building envelope on all lot(s) which contain(s) buildable area of a sufficient size to accommodate the uses permitted in the underlying zone, unless the action is for open space or conservation purposes. This section shall apply even if the effect is to prohibit further division of lots that are larger than the minimum size permitted in the zoning ordinance.
- I. Basements.
 - 1. Habitable basements are not permitted for new or existing structures or additions located within the Flood Plain Corridor.
 - 2. Non-habitable basements, used for storage, parking, and similar uses are permitted for residential structures but must be flood-proofed to the standards of Chapter 15.10.
- J. Storage of petroleum products, pesticides, or other hazardous or toxic chemicals is not permitted in Flood Plain Corridor Lands.
- K. Fences shall be located and constructed in accordance with Section 18.63.060.B.3. Fences shall not be constructed across any waterway or stream identified on the official maps adopted pursuant to Section 18.62.060. Fences shall not be constructed within any designated floodway.
- L. Decks and structures other than buildings, if constructed on Flood Plain Corridor Lands and at or below the levels specified in Section 18.62.070.C and D, shall be flood-proofed to the standards contained in Chapter 15.10.
- M. Local streets and utility connections to developments in and adjacent to the Flood Plain Corridor shall be located outside of the Flood Plain Corridor, except for crossing the Corridor, except as provided for in Chapter 18.63 Water Resource Protection Zones, or in

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the Flood Plain Corridor as outlined below:

1. Public street construction may be allowed within the Bear Creek Flood Plain Corridor as part of development following the adopted North Mountain Neighborhood Plan. This exception shall only be permitted for that section of the Bear Creek Flood Plain Corridor between North Mountain Avenue and the Nevada Street right-of-way. The new street shall be constructed in the general location as indicated on the neighborhood plan map, and in the area generally described as having the shallowest potential for flooding within the corridor.
2. Proposed development that is not in accord with the North Mountain Neighborhood Plan shall not be permitted to utilize this exception.

(Ord 2998, Amended, 12/15/2009; Ord 2951, Amended, 7/01/2008; Ord 2808, Added, 2/02/1997, Ord 3045, Amended, 04/15/2011)

SECTION 18.62.080 Development Standards for Hillside Lands.

It is the purpose of the Development Standards for Hillside Lands to provide supplementary development regulations to underlying zones to ensure that development occurs in such a manner as to protect the natural and topographic character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety, and general welfare by insuring that development does not create soil erosion, sedimentation of lower slopes, slide damage, flooding problems, and severe cutting or scarring. It is the intent of these development standards to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the City.

- A. General Requirements. The following general requirements shall apply in Hillside Lands:
1. All development shall occur on lands defined as having buildable area. Slopes greater than 35% shall be considered unbuildable except as allowed below. Variances may be granted to this requirement only as provided in Section 18.62.080.H.
 - a. Existing parcels without adequate buildable area less than or equal to 35% shall be considered buildable for one unit.
 - b. Existing parcels without adequate buildable area less than or equal to 35% cannot be subdivided or partitioned.
 2. All newly created lots either by subdivision or partition shall contain a building envelope with a slope of 35% or less.
 3. New streets, flag drives, and driveways shall be constructed on lands of less than or equal to 35% slope with the following exceptions:
 - a. The street is indicated on the City's Transportation Plan Map - Street Dedications.
 - b. The portion of the street, flag drive, or driveway on land greater than 35% slope does not exceed a length of 100 feet.
 4. Geotechnical Studies. For all applications on Hillside Lands involving subdivisions or partitions, the following additional information is required:

A geotechnical study prepared by a geotechnical expert indicating that the site is stable for the proposed use and development. The study shall include the following information:

- a. Index map.
- b. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.
- c. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds,

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- etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.
- d. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.
 - e. Suitability of site for proposed development from a geologic standpoint.
 - f. Specific recommendations for cut and fill slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.
 - g. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.
 - h. Signature and registration number of the engineer and/or geologist.
 - i. Additional information or analyses as necessary to evaluate the site.
 - j. Inspection schedule for the project as required in 18.62.080.B.9.
 - k. Location of all irrigation canals and major irrigation pipelines.
- B. Hillside Grading and Erosion Control. All development on lands classified as hillside shall provide plans conforming with the following items:
1. All grading, retaining wall design, drainage, and erosion control plans for development on Hillside Lands shall be designed by a geotechnical expert. All cuts, grading or fills shall conform to the International Building Code and be consistent with the provisions of this Title. Erosion control measures on the development site shall be required to minimize the solids in runoff from disturbed areas.
 2. For development other than single family homes on individual lots, all grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Excavation shall not occur during the remaining wet months of the year. Erosion control measures shall be installed and functional by October 31. Up to 30 day modifications to the October 31 date, and 45 day modification to the May 1 date may be made by the Planning Director, based upon weather conditions and in consultation with the project geotechnical expert. The modification of dates shall be the minimum necessary, based upon evidence provided by the applicant, to accomplish the necessary project goals.
 3. Retention in natural state. On all projects on Hillside Lands involving partitions and subdivisions, and existing lots with an area greater than one-half acre, an area equal to 25% of the total project area, plus the percentage figure of the average slope of the total project area, shall be retained in a natural state. Lands to be retained in a natural state shall be protected from damage through the use of temporary construction fencing or the functional equivalent.

For example, on a 25,000 sq. ft. lot with an average slope of 29%, $25\%+29\%=54\%$ of the total lot area shall be retained in a natural state.

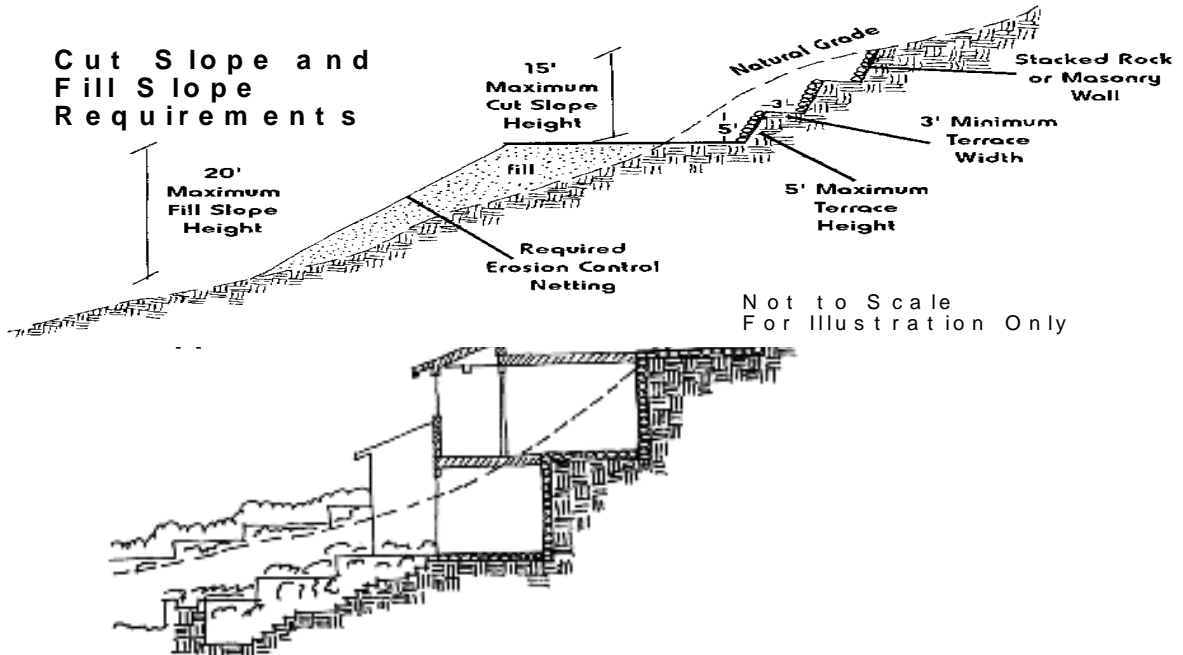
The retention in a natural state of areas greater than the minimum percentage required here is encouraged.

4. Grading - cuts. On all cut slopes on areas classified as Hillside Lands, the following standards shall apply:
 - a. Cut slope angles shall be determined in relationship to the type of materials of which they are composed. Where the soil permits, limit the total area exposed to precipitation and erosion. Steep cut slopes shall be retained with stacked rock, retaining walls, or functional equivalent to control erosion and provide slope stability when necessary. Where cut slopes are required to be laid back (1:1 or less steep),

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the slope shall be protected with erosion control getting or structural equivalent installed per manufacturers specifications, and revegetated.

- b. Exposed cut slopes, such as those for streets, driveway accesses, or yard areas, greater than seven feet in height shall be terraced. Cut faces on a terraced section shall not exceed a maximum height of five feet. Terrace widths shall be a minimum of three feet to allow for the introduction of vegetation for erosion control. Total cut slopes shall not exceed a maximum vertical height of 15 feet. (See Graphic)



The top of cut slopes not utilizing structural retaining walls shall be located a minimum setback of one-half the height of the cut slope from the nearest property line.

Cut slopes for structure foundations encouraging the reduction of effective visual bulk, such as split pad or stepped footings shall be exempted from the height limitations of this section. (See Graphic)

- c. Revegetation of cut slope terraces shall include the provision of a planting plan, introduction of top soil where necessary, and the use of irrigation if necessary. The vegetation used for these areas shall be native or species similar in resource value which will survive, help reduce the visual impact of the cut slope, and assist in providing long term slope stabilization. Trees, bush-type plantings and cascading vine-type plantings may be appropriate.
5. Grading - fills. On all fill slopes on lands classified as Hillside Lands, the following standards shall apply:
 - a. Fill slopes shall not exceed a total vertical height of 20 feet. The toe of the fill slope area not utilizing structural retaining shall be a minimum of six feet from the nearest property line.

(Ord 2834 S6, 1998)

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- b. Fill slopes shall be protected with an erosion control netting, blanket or functional equivalent. Netting or blankets shall only be used in conjunction with an organic mulch such as straw or wood fiber. The blanket must be applied so that it is in complete contact with the soil so that erosion does not occur beneath it. Erosion netting or blankets shall be securely anchored to the slope in accordance with manufacturer's recommendations.
 - c. Utilities. Whenever possible, utilities shall not be located or installed on or in fill slopes. When determined that it necessary to install utilities on fill slopes, all plans shall be designed by a geotechnical expert.
 - d. Revegetation of fill slopes shall utilize native vegetation or vegetation similar in resource value and which will survive and stabilize the surface. Irrigation may be provided to ensure growth if necessary. Evidence shall be required indicating long-term viability of the proposed vegetation for the purposes of erosion control on disturbed areas.
6. Revegetation requirements. Where required by this chapter, all required revegetation of cut and fill slopes shall be installed prior to the issuance of a certificate of occupancy, signature of a required survey plat, or other time as determined by the hearing authority. Vegetation shall be installed in such a manner as to be substantially established within one year of installation.
7. Maintenance, Security, and Penalties for Erosion Control Measures.
 - a. Maintenance. All measures installed for the purposes of long-term erosion control, including but not limited to vegetative cover, rock walls, and landscaping, shall be maintained in perpetuity on all areas which have been disturbed, including public rights-of-way. The applicant shall provide evidence indicating the mechanisms in place to ensure maintenance of measures.
 - b. Security. Except for individual lots existing prior to January 1, 1998, after an Erosion Control Plan is approved by the hearing authority and prior to construction, the applicant shall provide a performance bond or other financial guarantees in the amount of 120% of the value of the erosion control measures necessary to stabilize the site. Any financial guarantee instrument proposed other than a performance bond shall be approved by the City Attorney. The financial guarantee instrument shall be in effect for a period of at least one year, and shall be released when the Planning Director and Public Works Director determine, jointly, that the site has been stabilized. All or a portion of the security retained by the City may be withheld for a period up to five years beyond the one year maintenance period if it has been determined by the City that the site has not been sufficiently stabilized against erosion.
8. Site Grading. The grading of a site on Hillside Lands shall be reviewed considering the following factors:
 - a. No terracing shall be allowed except for the purposes of developing a level building pad and for providing vehicular access to the pad.
 - b. Avoid hazardous or unstable portions of the site.
(Ord 2834,S2 1998)
 - c. Avoid hazardous or unstable portions of the site.
 - d. Building pads should be of minimum size to accommodate the structure and a reasonable amount of yard space. Pads for tennis courts, swimming pools and large lawns are discouraged. As much of the remaining lot area as possible should be kept in the natural state of the original slope.
9. Inspections and Final Report. Prior to the acceptance of a subdivision by the City, signature of the final survey plat on partitions, or issuance of a certificate of occupancy

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for individual structures, the project geotechnical expert shall provide a final report indicating that the approved grading, drainage, and erosion control measures were installed as per the approved plans, and that all scheduled inspections, as per 18.62.080.A.4.j were conducted by the project geotechnical expert periodically throughout the project.

C. Surface and Groundwater Drainage. All development on Hillside Lands shall conform to the following standards:

1. All facilities for the collection of stormwater runoff shall be required to be constructed on the site and according to the following requirements:
 - a. Stormwater facilities shall include storm drain systems associated with street construction, facilities for accommodating drainage from driveways, parking areas and other impervious surfaces, and roof drainage systems.
 - b. Stormwater facilities, when part of the overall site improvements, shall be, to the greatest extent feasible, the first improvements constructed on the development site.
 - c. Stormwater facilities shall be designed to divert surface water away from cut faces or sloping surfaces of a fill.
 - d. Existing natural drainage systems shall be utilized, as much as possible, in their natural state, recognizing the erosion potential from increased storm drainage.
 - e. Flow-retarding devices, such as detention ponds and recharge berms, shall be used where practical to minimize increases in runoff volume and peak flow rate due to development. Each facility shall consider the needs for an emergency overflow system to safely carry any overflow water to an acceptable disposal point.
 - f. Stormwater facilities shall be designed, constructed and maintained in a manner that will avoid erosion on-site and to adjacent and downstream properties.
 - g. Alternate stormwater systems, such as dry well systems, detention ponds, and leach fields, shall be designed by a registered engineer or geotechnical expert and approved by the City's Public Works Department or City Building Official.

D. Tree Conservation, Protection and Removal. All development on Hillside Lands shall conform to the following requirements:

1. Inventory of Existing Trees. A tree survey at the same scale as the project site plan shall be prepared, which locates all trees greater than six inches d.b.h., identified by d.b.h., species, approximate extent of tree canopy. In addition, for areas proposed to be disturbed, existing tree base elevations shall be provided. Dead or diseased trees shall be identified. Groups of trees in close proximity (i.e. those within five feet of each other) may be designated as a clump of trees, with the predominant species, estimated number and average diameter indicated. All tree surveys shall have an accuracy of plus or minus two feet. The name, signature, and address of the site surveyor responsible for the accuracy of the survey shall be provided on the tree survey.

Portions of the lot or project area not proposed to be disturbed by development need not be included in the inventory.

2. Evaluation of Suitability for Conservation. All trees indicated on the inventory of existing trees shall also be identified as to their suitability for conservation. When required by the hearing authority, the evaluation shall be conducted by a landscape professional. Factors included in this determination shall include:
 - a. Tree health. Healthy trees can better withstand the rigors of development than non-vigorous trees.

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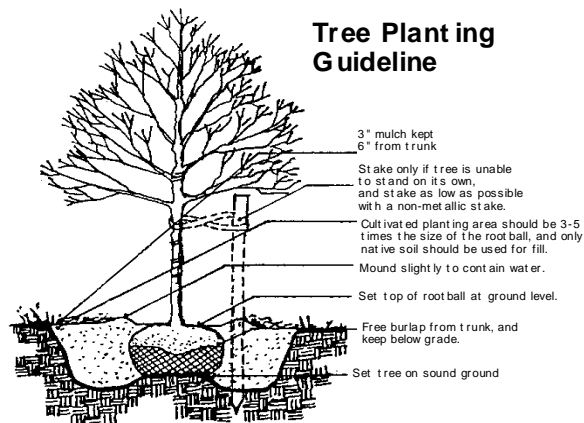
- b. Tree Structure. Trees with severe decay or substantial defects are more likely to result in damage to people and property.
 - c. Species. Species vary in their ability to tolerate impacts and damage to their environment.
 - d. Potential longevity.
 - e. Variety. A variety of native tree species and ages.
 - f. Size. Large trees provide a greater protection for erosion and shade than smaller trees.
3. Tree Conservation in Project Design. Significant trees (2' d.b.h. or greater conifers and 1' d.b.h. or greater broadleaf) shall be protected and incorporated into the project design whenever possible.
- a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.



- b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands.
 - c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.
4. Tree Protection. On all properties where trees are required to be preserved during the course of development, the developer shall follow the following tree protection standards:
- a. All trees designated for conservation shall be clearly marked on the project site. Prior to the start of any clearing, stripping, stockpiling, trenching, grading, compaction, paving or change in ground elevation, the applicant shall install fencing at the drip line of all trees to be preserved adjacent to or in the area to be altered. Temporary fencing shall be established at the perimeter of the dripline. Prior to grading or issuance of any permits, the fences may be inspected and their location approved by the Staff Advisor. (see 18.61.200)
 - b. Construction site activities, including but not limited to parking, material storage, soil compaction and concrete washout, shall be arranged so as to prevent disturbances within tree protection areas.
 - c. No grading, stripping, compaction, or significant change in ground elevation shall be permitted within the drip line of trees designated for conservation unless indicated on the grading plans, as approved by the City, and landscape professional. If grading or construction is approved within the dripline, a landscape professional may be

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- required to be present during grading operations, and shall have authority to require protective measures to protect the roots.
- d. Changes in soil hydrology and site drainage within tree protection areas shall be minimized. Excessive site run-off shall be directed to appropriate storm drain facilities and away from trees designated for conservation.
 - e. Should encroachment into a tree protection area occur which causes irreparable damage, as determined by a landscape professional, to trees, the project plan shall be revised to compensate for the loss. Under no circumstances shall the developer be relieved of responsibility for compliance with the provisions of this chapter.
5. **Tree Removal.** Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions:
(Ord 2834 S3, 1998)
- a. The tree is located within the building envelope.
 - b. The tree is located within a proposed street, driveway, or parking area.
 - c. The tree is located within a water, sewer, or other public utility easement.
 - d. The tree is determined by a landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by the standards in 18.62.080.D.2.
 - e. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.
6. **Tree Replacement.** Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, or a hazard, shall be replaced in compliance with the following standards:
- a. Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.
(Ord 2834 S4, 1998)
 - b. Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. The canopy shall be designed to mitigate of the impact of paved and developed areas, reduce surface erosion and increase slope stability. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.



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- c. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting must be replaced in kind, after which a new five year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.

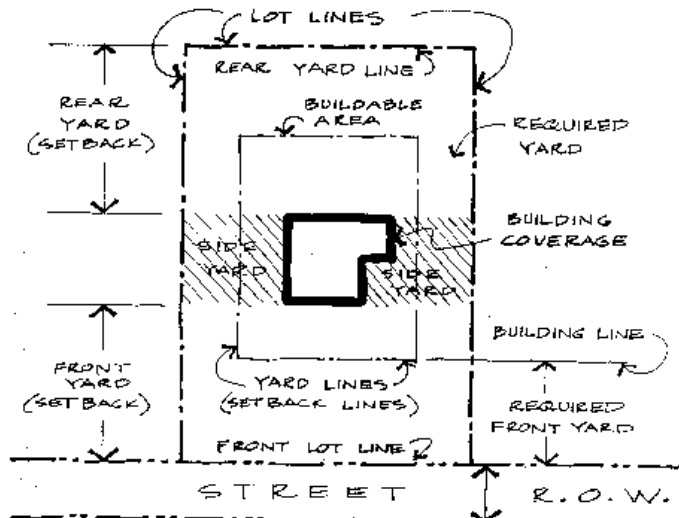
(Ord 2834 S5, 1998)

7. Enforcement.

- a. All tree removal shall be done in accord with the approved tree removal and replacement plan. No trees designated for conservation shall be removed without prior approval of the City of Ashland.
- b. Should the developer or developer's agent remove or destroy any tree that has been designated for conservation, the developer may be fined up to three times the current appraised value of the replacement trees and cost of replacement or up to three times the current market value, as established by a professional arborist, whichever is greater.
- c. Should the developer or developer's agent damage any tree that has been designated for protection and conservation, the developer shall be penalized \$50.00 per scar. If necessary, a professional arborist's report, prepared at the developer's expense, may be required to determine the extent of the damage. Should the damage result in loss of appraised value greater than determined above, the higher of the two values shall be used.

E. Building Location and Design Standards. All buildings and buildable areas proposed for Hillside Lands shall be designed and constructed in compliance with the following standards:

- 1. Building Envelopes. All newly created lots, either by subdivision or partition, shall contain building envelopes conforming to the following standards:
 - a. The building envelope shall contain a buildable area with a slope of 35% or less.



- b. Building envelopes and lot design shall address the retention of a percentage of the lot in a natural state as required in 18.62.080.B.3.

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- c. Building envelopes shall be designed and located to maximize tree conservation as required in 18.62.080.D.3 while recognizing and following the standards for fuel reduction if the development is located in Wildfire Lands
- d. It is recommended that building envelope locations should be located to avoid ridgeline exposures, and designed such that the roofline of a building within the envelope does not project above the ridgeline.

Retention of hillside
character and natural
slope by avoiding
ridgeline
locations



- 2. Building Design. To reduce hillside disturbance through the use of slope responsive design techniques, buildings on Hillside Lands, excepting those lands within the designated Historic District, shall incorporate the following into the building design and indicate features on required building permits:
 - a. Hillside Building Height. The height of all structures shall be measured vertically from the natural grade to the uppermost point of the roof edge or peak, wall, parapet, mansard, or other feature perpendicular to that grade. Maximum Hillside Building Height shall be 35 feet. (graphics available on original ordinance)
 - b. Cut buildings into hillsides to reduce effective visual bulk.
 - (1) Split pad or stepped footings shall be incorporated into building design to allow the structure to more closely follow the slope.
 - (2) Reduce building mass by utilizing below grade rooms cut into the natural slope.
 - c. A building setback shall be required on all downhill building walls greater than 20 feet in height, as measured above natural grade. Setbacks shall be a minimum of six feet. No vertical walls on the downhill elevations of new buildings shall exceed a maximum height of 20 feet above natural grade. (see graphic)
 - d. Continuous horizontal building planes shall not exceed a maximum length of 36 feet. Planes longer than 36 feet shall include a minimum offset of six feet. (graphic available on original ordinance)
 - e. It is recommended that roof forms and roof lines for new structures be broken into a series of smaller building components to reflect the irregular forms of the surrounding hillside. Long, linear unbroken roof lines are discouraged. Large gable ends on downhill elevations should be avoided, however smaller gables may be permitted. (graphic available on original ordinance)
 - f. It is recommended that roofs of lower floor levels be used to provide deck or outdoor space for upper floor levels. The use of overhanging decks with vertical supports in excess of 12 feet on downhill elevations should be avoided.
 - g. It is recommended that color selection for new structures be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment.
- F. All structures on Hillside Lands shall have foundations which have been designed by an engineer or architect with demonstrable geotechnical design experience. A designer, as

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defined, shall not complete working drawings without having foundations designed by an engineer.

- G. All newly created lots or lots modified by a lot line adjustment must include a building envelope on all lots that contains a buildable area less than 35% slope of sufficient size to accommodate the uses permitted in the underlying zone, unless the division or lot line adjustment is for open space or conservation purposes.

H. Administrative Variance From Development Standards for Hillside Lands - 18.62.080.

A variance under this section is not subject to the variance requirements of Section 18.100 and may be granted with respect to the development standards for Hillside Lands if all of the following circumstances are found to exist:

1. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site;
2. The variance will result in equal or greater protection of the resources protected under this chapter;
3. The variance is the minimum necessary to alleviate the difficulty; and
4. The variance is consistent with the stated Purpose and Intent of the Physical and Environmental Constraints Chapter and Section 18.62.080.

Appeals of decisions involving administrative variances shall be processed as outlined in 18.108.070.

(Ord 2951, Amended, 07/01/2008; Ord 2808, Added, 12/02/1997)

SECTION 18.62.090 Development Standards for Wildfire Lands.

A. Requirements for Subdivisions, Performance Standards Developments, or Partitions.

1. A Fire Prevention and Control Plan shall be required with the submission of any application for an outline plan approval of a Performance Standards Development, preliminary plat of a subdivision, or application to partition land which contained areas designated Wildfire Hazard areas.
2. The Staff Advisor shall forward the Fire Prevention and Control Plan to the Fire Chief within 3 days of the receipt of a completed application. The Fire Chief shall review the Fire Prevention and Control Plan, and submit a written report to the Staff Advisor no less than 7 days before the scheduled hearing. The Fire Chief's report shall be a part of the record of the Planning Action.
3. The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall include the following items:
 - a. An analysis of the fire hazards on the site from wildfire, as influenced by existing vegetation and topography.
 - b. A map showing the areas that are to be cleared of dead, dying, or severely diseased vegetation.
 - c. A map of the areas that are to be thinned to reduce the interlocking canopy of trees.
 - d. A tree management plan showing the location of all trees that are to be preserved and removed on each lot. In the case of heavily forested parcels, only trees scheduled for removal shall be shown.
 - e. The areas of Primary and Secondary Fuel Breaks that are required to be installed around each structure, as required by 18.62.090.B.
 - f. Roads and driveways sufficient for emergency vehicle access and fire suppression activities, including the slope of all roads and driveways within the Wildfire Lands

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area.

4. Criterion for Approval. The hearing authority shall approve the Fire Prevention and Control Plan when, in addition to the findings required by this chapter, the additional finding is made that the wildfire hazards present on the property have been reduced to a reasonable degree, balanced with the need to preserve and/or plant a sufficient number of trees and plants for erosion prevention, wildlife habitat, and aesthetics.
 5. The hearing authority may require, through the imposition of conditions attached to the approval, the following requirements as deemed appropriate for the development of the property:
 - a. Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.
 - b. Clearing of sufficient vegetation to reduce fuel load.
 - c. Removal of all dead and dying trees.
 - d. Relocation of structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.
 6. The Fire Prevention and Control Plan shall be implemented during the public improvements required of a subdivision or Performance Standards Development, and shall be considered part of the subdivider's obligations for land development. The Plan shall be implemented prior to the issuance of any building permit for structures to be located on lots created by partitions and for subdivisions or Performance Standards developments not requiring public improvements. The Fire Chief, or designee, shall inspect and approve the implementation of the Fire Prevention and Control Plan, and the Plan shall not be considered fully implemented until the Fire Chief has given written notice to the Staff Advisor that the Plan was completed as approved by the hearing authority.
 7. In subdivisions or Performance Standards Developments, provisions for the maintenance of the Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the development, and the City of Ashland shall be named as a beneficiary of such covenants, restrictions, and conditions.
 8. On lots created by partitions, the property owner shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan approved by the hearing authority.
- B. Requirements for construction of all structures.
1. All new construction and any construction expanding the size of an existing structure, shall have a "fuel break" as defined below.
 2. A "fuel break" is defined as an area which is free of dead or dying vegetation, and has native, fast-burning species sufficiently thinned so that there is no interlocking canopy of this type of vegetation. Where necessary for erosion control or aesthetic purposes, the fuel break may be planted in slow-burning species. Establishment of a fuel break does not involve stripping the ground of all native vegetation. "Fuel Breaks" may include structures, and shall not limit distance between structures and residences beyond that required by other sections of this title.
 3. Primary Fuel Break - A primary fuel break will be installed, maintained and shall extend a minimum of 30 feet, or to the property line, whichever is less, in all directions around structures, excluding fences, on the property. The goal within this area is to remove ground cover that will produce flame lengths in excess of one foot. Such a fuel break shall be increased by ten feet for each 10% increase in slope over 10%. Adjacent property owners are encouraged to cooperate on the development of primary fuel breaks.

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4. Secondary Fuel Break - A secondary fuel break will be installed, maintained and shall extend a minimum of 100 feet beyond the primary fuel break where surrounding landscape is owned and under the control of the property owner during construction. The goal of the secondary fuel break is to reduce fuels so that the overall intensity of any wildfire is reduced through fuels control.
 5. All structures shall be constructed or re-roofed with Class B or better non-wood roof coverings, as determined by the Oregon Structural Specialty Code. All re-roofing of existing structures in the Wildfire Lands area for which at least 50% of the roofing area requires re-roofing shall be done under approval of a zoning permit. No structure shall be constructed or re-roofed with wooden shingles, shakes, wood-product material or other combustible roofing material, as defined in the City's building code.
- C. Fuel breaks in areas which are also Erosive or Slope Failure Lands shall be included in the erosion control measures outlined in Section 18.62.080.
- D. Implementation.
1. For land which have been subdivided and required to comply with A(6) above, all requirements of the plan shall be complied with prior to the commencement of construction with combustible materials.
 2. For all other structures, the vegetation control requirements of Section (B) above shall be complied with before the commencement of construction with combustible materials on the lot.
(Ord 2657, 1991)
 3. As of November 1, 1994, existing residences in subdivisions developed outside of the Wildfire Lands Zone, but later included due to amendments to the zone boundaries shall be exempt from the requirements of this zone, with the exception of Section 18.62.090.B.5 above. All new residences shall comply with all standards for new construction in Section 18.62.090.B.
 4. Subdivisions developed outside of the wildfire lands zone prior to November 1, 1994, but later included as part of the zone boundary amendment, shall not be required to prepare or implement Fire Prevention and Control Plans outlined in Section 18.62.090.A.
(Ord 2747, 1994; Ord 2808, Added, 12/02/1997)

SECTION 18.62.100 Development Standards for Severe Constraint Lands.

- A. Severe Constraint Lands are extremely sensitive to development, grading, filling, or vegetation removal and, whenever possible, alternative development should be considered.
- B. Development of floodways is not permitted except for bridges and road crossings. Such crossings shall be designed to pass the 100 year flood without raising the upstream flood height more than six inches.
- C. Development on lands greater than 35% slope shall meet all requirements of Section 18.62.080 in addition to the requirements of this section.
- D. Development of land or approval for a planning action shall be allowed only when the following study has been accomplished. An engineering geologic study approved by the City's Public Works Director and Planning Director establishes that the site is stable for the proposed use and development. The study shall include the following:
 1. Index map.

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2. Project description to include location, topography, drainage, vegetation, discussion of previous work and discussion of field exploration methods.
3. Site geology, based on a surficial survey, to include site geologic maps, description of bedrock and surficial materials, including artificial fill, locations of any faults, folds, etc., and structural data including bedding, jointing and shear zones, soil depth and soil structure.
4. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.
5. Suitability of site for proposed development from a geologic standpoint.
6. Specific recommendations for cut slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.
7. If deemed necessary by the engineer or geologist to establish whether an area to be affected by the proposed development is stable, additional studies and supportive data shall include cross-sections showing subsurface structure, graphic logs with subsurface exploration, results of laboratory test and references.
8. Signature and registration number of the engineer and/or geologist.
9. Additional information or analyses as necessary to evaluate the site.

(Ord 2808, Added, 12/02/1997)

SECTION 18.62.110 Density Transfer.

Density may be transferred out of unbuildable areas to buildable areas of a lot provided the following standards are met:

- A. Partitions and subdivisions involving density transfer shall be processed under Performance Standards, Chapter 18.88 of the Ashland Municipal Code.
- B. A map shall be submitted showing the net buildable area to which the density will be transferred.
- C. A covenant shall be recorded limiting development on the area from which density is transferred.
- D. Density may not be transferred from one ownership to another but only within the lot(s) owned by the same person.
- E. Density may be transferred only on contiguous lots under common ownership.
- F. The density of the buildable area may not be increased to more than two (2) times the permitted density of the underlying zone. Fractional units are to be rounded down to the next whole number.

(Ord. 2528, 1989; Ord 2808, Added, 12/02/1997)

SECTION 18.62.130 Penalties.

The following sections are in addition to the enforcement actions that may be taken and penalties which may be imposed in Chapter 18.112 for a violation of this chapter:

- A. Whenever any work is being done contrary to the provisions of this chapter or whenever erosion control measures, tree protection measures, wildfire control measures, or Flood

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Plain Corridor development measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the Director of Community Development or the director's designee, may order the work stopped by notice in writing served on any persons engaged in the doing or causing of such work to be done, and any such persons shall immediately stop work until authorized by the director or designee to proceed with the work.

- B. All development under this chapter and all work or construction for which a permit is required under this chapter shall be subject to inspection by the Director of Community Development or the director's designee. When an inspection is made under this section or when it is necessary to make an inspection to enforce this code, or when the Director or designee has reasonable cause to believe that there exists upon Hillside Lands a condition which is contrary to or in violation of this chapter which makes the premises unsafe, dangerous or hazardous, the Director or designee may enter the premises at reasonable times to inspect or to perform the duties imposed by this chapter. The Director or designee shall first make a reasonable effort to locate the owner or other person having charge of the premises and request entry.
- C. The City may refuse to accept any development permit application, may revoke or suspend any development or building permit, or may deny occupancy on the property until erosion control measures, tree protection measures, wildfire control measures, or Flood Plain Corridor development measures have been installed properly and are maintained in accordance with the requirements of this chapter.
- D. The owner of the property from which erosion occurs due to failure or neglect of erosion control measures, together with any person or parties who cause such erosion shall be responsible to mitigate the impacts of the erosion and prevent future erosion.

(Ord 2808, Added, 12/02/1997)

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CHAPTER 18.63

WATER RESOURCE PROTECTION ZONES

SECTIONS:

18.63.010	Purpose and Intent.
18.63.020	Where Regulations Apply.
18.63.030	Definitions.
18.63.040	Inventory of Ashland's Water Resources.
18.63.050	Establishment of Water Resource Protection Zones.
18.63.060	Activities and Uses Exempt from These Regulations.
18.63.070	Limited Activities and Uses within Water Resource Protection Zones.
18.63.080	Water Resource Protection Zone Reductions.
18.63.090	Hardship Variances.
18.63.100	Approval Standards for Land Divisions and Property Line Adjustments within Water Resource Protection Zones.
18.63.110	Plan Requirements.
18.63.120	Mitigation Requirements.
18.63.130	Map Errors and Adjustments.
18.63.140	Enforcement and Penalties.

SECTION 18.63.010 Purpose and Intent.

The purpose and intent of this chapter are:

- A. To implement state and federal law with respect to the protection of clean water, pollution control and preservation of endangered species.
- B. To protect Ashland's Goal 5 significant wetlands and riparian areas, thereby protecting and restoring the hydrologic, ecologic and land conservation functions these areas provide for the community.
- C. To implement the provisions of Statewide Planning Goals 6 and 7, which require the buffering and separation of those land uses and activities that lead to or may create impacts on water quality, as well as to reduce the risk to people and property resulting from the inappropriate management of wetland and riparian areas.
- D. To implement the goals and policies of the Environmental Resources chapter of Ashland's Comprehensive Plan with respect to water resources, wetlands, floodplains and stream flooding.
- E. To reduce flood damage and potential loss of life in areas subject to periodic flooding.
- F. To better manage storm water drainage, minimize maintenance costs, protect properties adjacent to drainage ways, improve water quality, protect riparian and aquatic fish and wildlife habitat and provide opportunities for trail connections.

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- G. To protect water associated with Ashland's hydrology for human uses, fish and wildlife and their habitats.
- H. To control erosion and limit sedimentation.
- I. To protect the amenity values and educational opportunities of Ashland's wetlands, water bodies and associated riparian areas as community assets.
- J. To improve public appreciation and understanding of wetlands and riparian areas for their unique ecosystem structure and functions and for the human-nature interactions they provide.
- K. To improve and promote coordination among local, state, and federal agencies regarding development activities near Ashland's wetlands, water bodies and associated riparian areas.
- L. In cases of hardship, to provide a procedure to alter wetlands and riparian areas only when offset by appropriate mitigation, as stipulated in the ordinance and other applicable state and federal requirements.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.020 Where Regulations Apply.

- A. The provisions of this chapter apply to all lands containing Water Resources and Water Resource Protection Zones. Water Resources and Water Resource Protection Zones are defined, established and protected in this chapter.
- B. State and federal wetland and riparian regulations will continue to apply within the City of Ashland, regardless of whether or not these areas are mapped on Ashland's Water Resources Map. Nothing in this chapter shall be interpreted as superseding or nullifying state or federal requirements. Additionally, the City of Ashland shall provide notification to the Oregon Department of State Lands (DSL), as required by Division 23 of Oregon Administrative Rules, for all applications concerning development permits or other land use decisions affecting wetlands on the inventory.
- C. The burden is on the property owner to demonstrate that the requirements of this chapter are met or are not applicable to development activity or other proposed use or alteration of land. The Staff Advisor may make a determination based on the Water Resources Map, field check, and any other relevant maps, site plans and information that a Water Resource or Water Resource Protection Zone is not located on a particular site or is not impacted by proposed development, activities or uses. In cases where the location of the Water Resource or Water Resource Protection Zone is unclear or disputed, the Staff Advisor may require a survey, delineation prepared by a natural resource professional, or a sworn statement from a natural resource professional that no Water Resources or Water Resource Protection Zones exist on the site.
- D. All Water Resource Protection Zones shall be protected from alteration and development, except as specifically provided in this chapter. No person or entity shall alter or allow to be altered any real property designated as a Water Resource Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter. No person or entity shall use or allow to be used, property designated as a Water Resource

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Protection Zone, except as set forth in an exemption, approved planning application or permit authorized in this chapter.

- E. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. It is likely that there will be some overlap between the regulations in this chapter and those in Chapter 18.62 Physical and Environmental Constraints, which regulates development in physical constrained areas including floodplains. Where two regulations are in conflict, the most stringent shall govern.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.030 Definitions

Alter or Alteration – means any human-induced physical change to the existing condition of land or improvements thereon including but not limited to clearing, grubbing, draining, removal of vegetation (chemical or otherwise), excavation, grading, placement of fill material, placement of structures or impervious surfaces or other construction. “**Permit to be altered**” means allowing or failing to prevent the alteration.

Approval Authority – the Staff Advisor, Planning Commission or its Hearings Board, Hearings Officer, or City Council as determined by the applicable procedural requirements.

Bank Full Stage – means the two year recurrence interval flood elevation.

Centerline of Stream – an imaginary line that is in the midpoint of the stream channel. In cases where a stream has multiple or braided channels, the centerline of stream is the midpoint between the outermost or upland sides of the stream channels (Figure 1).

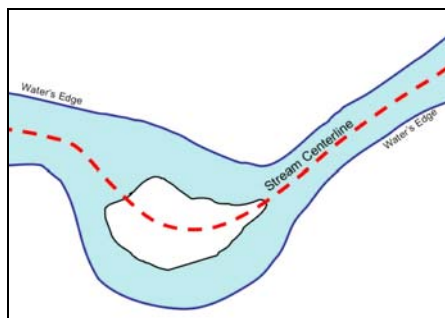


Figure 1: Centerline of Stream

Clearing – means the removal, redistribution or disturbance of vegetation, soil or substrate that may include trees, brush, grass, ground cover, or other vegetative matter from a site.

Drainage Ditch or Channels include:

1. Roadside ditches that carry only storm water runoff from the adjacent road and the immediate surrounding area. (Drainage ditches do not include historically altered streams or channels that convey surface water flows. These features are still classified as streams for the purpose of this ordinance.)
2. Constructed channels designed as part of the storm water infrastructure and drain directly from storm water facilities or storm pipe systems.

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Enhancement – means actions performed to improve the condition or functions and values of a Water Resource and its associated Protection Zone. Enhancement actions include but are not limited to increasing plant diversity, increasing fish and wildlife habitat, installing environmentally compatible erosion controls, and removing invasive plant species.

Fill Material – means a deposit of earth or other natural or manmade material placed by artificial means.

Filling – means the act of placing fill material in any amount, including the temporary stockpiling of fill material.

Fish Bearing or Fish Habitat – means inhabited at any time of the year by anadromous or game fish species or fish that are listed as threatened or endangered species under the state or federal endangered species acts. Fish use is determined from Oregon Department of Forestry Stream Classification, Oregon Department of Fish and Wildlife and Oregon Department of State Lands maps for salmonid fish distribution.

Hand-held Equipment or Machinery – means equipment or machinery held in and operated by hand. Hand-held equipment or machinery includes but is not limited to manual tools, weed eaters, chainsaws, and equipment or machinery with wheels and a weight of 100 pounds or less such as push lawn mowers and brush mowers. For the purposes of this ordinance, equipment or machinery with wheels and a weight in excess of 100 pounds is not considered hand-held equipment or machinery.

Impervious Surface – means surface materials which prevent the normal infiltration of storm water into the ground.

Lawn – means grass or similar materials maintained as a ground cover of less than six inches in height. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.

Local Native Plant Species – means those plant species appropriate to planting in or adjacent to a Water Resource that are native species indigenous to the Rogue River Basin. Local native plant species are adapted to the elevation, weather, soils and hydrology of the area; will support the desired structure, functions, and values of the water resource; and once established require significantly less maintenance than non-native species. The City of Ashland Planning Division maintains a list of recognized site-appropriate local native plant species for both wetland and stream bank water resource applications, along with a list of known local suppliers. Plants may be added to or removed from the Local Native Plant List if reviewed and approved by the Staff Advisor in consultation with the City Horticulturist, Tree Commission, other professional groups with demonstrable expertise and local, state and federal agencies.

Mitigation – means taking one or more of the following actions listed in order of priority:

1. Avoiding the impact altogether by not taking a certain development action or parts of that action.
2. Minimizing impacts by limiting the degree or magnitude of the development action and its implementation.
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

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4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action by monitoring and taking appropriate corrective measures.
5. Compensating for the impact by replacing or providing comparable substitute resources or environments.

Mitigation Plan – means a plan that outlines the activities that will be undertaken to alleviate project impacts to sensitive areas.

Natural Resources Professional – a “natural resources professional” includes individuals who have a Bachelors degree, or the equivalent or greater, in the field of natural resources, biology, ecology, or related fields, and at least four years of relevant post graduate experience.

Non-native Species – means a plant species which is not indigenous to the local area.

Noxious and Invasive Vegetation – means plant species which are recognized as having a significant potential to disrupt the functions and values of local Water Resource ecosystems. The City of Ashland Planning Division maintains a list of recognized noxious and invasive plants. Plants may be added to or removed from the Prohibited Plant List if reviewed and approved by the Staff Advisor in consultation with the City Horticulturist, Tree Commission, other professional groups with demonstrable expertise and local, state and federal agencies.

Power-assisted Equipment or Machinery – means equipment or machinery other than hand-held equipment or machinery. For the purposes of this ordinance, equipment or machinery with wheels and a weight in excess of 100 pounds is considered power-assisted equipment or machinery.

Principal Building – a building in which the principal use of the zoning district in which it is located is conducted.

Restoration – means efforts performed to re-establish the functional values and characteristics of a critical area that have been destroyed or degraded by past alterations such as filling, grading or draining.

Riparian Area – means the area adjacent to a stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem, which affects or is directly affected by the stream.

Riparian Buffer – an area located adjacent to the stream and including the riparian area that is preserved for the purpose of protecting the functions and values of the stream and the riparian area by serving to reduce the adverse effects of adjacent land uses.

Riparian Corridor – “Riparian Corridor” is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. A Riparian Corridor is a type of Stream Bank Protection Zone.

Stream – a stream means a channel such as a creek that carries flowing surface water, including perennial, intermittent and ephemeral streams with defined channels, and excluding man-made irrigation and drainage channels. Drainage channels do not include historically

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altered streams or channels that convey surface water flows. A stream is a type of Water Resource.

Stream, Ephemeral – an ephemeral stream generally flows only during and following a rain event. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow. Intermittent and Ephemeral Streams is a type of Stream Bank Protection Zone.

Stream, Intermittent – an intermittent stream generally flows only during part of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Intermittent and Ephemeral Streams is a type of Stream Bank Protection Zone.

Stream, Perennial – a perennial stream has flowing water year-round during a typical year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Stream, Local – Local Streams is a type of Stream Bank Protection Zone.

Stream Bank Protection Zone – an area subject to the provisions of this chapter which includes a stream and an associated riparian buffer of varying width, as established herein, located adjacent to the stream, and in which certain human activities are regulated in order to protect the structure and functions of the stream. A Stream Bank Protection Zone is a type of Water Resource Protection Zone. There are three types of Stream Bank Protection Zones defined, established and protected in this chapter – Riparian Corridor, Local Streams and Intermittent and Ephemeral Streams.

Stream Bank Protection Zone Boundary – an imaginary line that is measured horizontally at a standard distance upland from the top of bank or from the center line of the stream as required in Section 18.63.050.

Stream Corridor Functions – include providing shade for the stream, stream bank and channel stability, woody debris for the stream, sediment retention, litter for aquatic organisms in the stream, water filtration, aquatic and riparian fish and wildlife habitat.

Top of Bank – means the elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate upland areas. Physical characteristics that indicate the elevation include a clear, natural line impressed on the shore, a change from bare soil to upland vegetation (e.g. oak, fir, pine), a change in vegetation from riparian vegetation (e.g. willows, big leaf maple, alders) to upland vegetation (e.g. oak, fir, pine), a textural change of depositional sediment or changes in the character of the soil (e.g. from sand, sand and cobble, cobble and gravel to upland soils), absence of fine debris (e.g. needles, leaves, cones and seeds), and the presence of water-borne litter or debris, water-stained leaves or water lines on tree trunks (Figure 2). In the absence of physical evidence or where the top of each bank is not clearly defined, the two year recurrence interval flood elevation may be used to approximate the top of bank.

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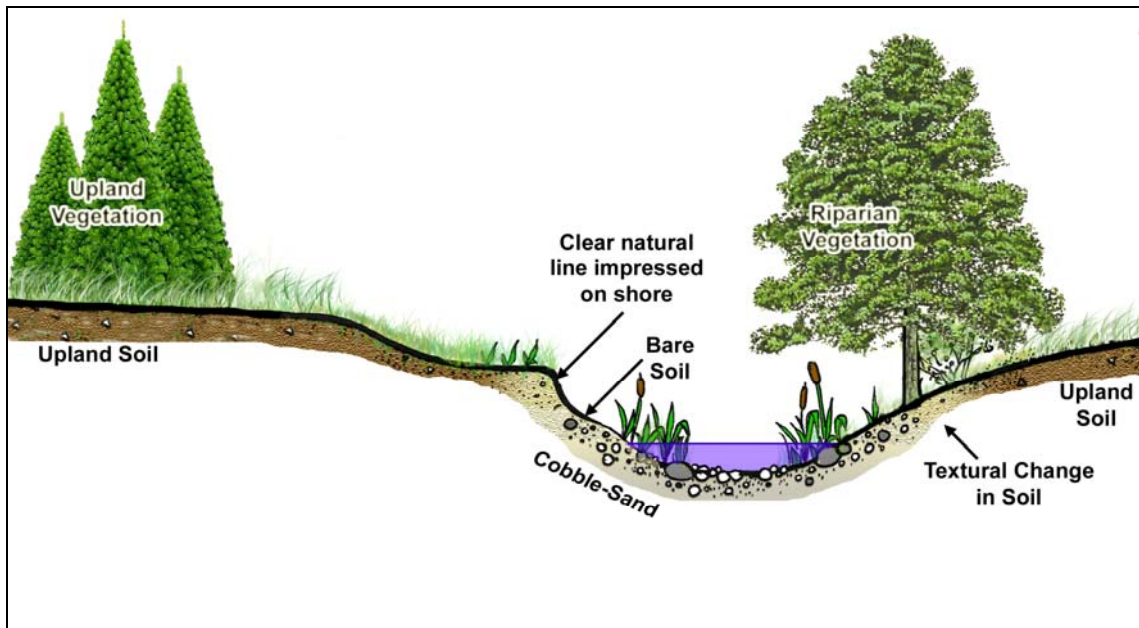


Figure 2: Top of Bank

Upland – land not characterized by the presence of riparian area, water bodies or wetlands.

Water Resource – means a riparian, local, intermittent or ephemeral stream corridor or a wetland, as distinguished from a riparian or wetland buffer, which extends upland from the Water Resource.

Water Resources Map – the adopted City of Ashland map which identifies the approximate locations of Water Resources in Ashland including officially recognized streams and wetlands identified on Ashland’s Local Wetland Inventory.

Water Resource Protection Zone – an area subject to the provisions of this chapter which includes a Water Resource and an associated buffer of varying width, as established herein, located adjacent to the Water Resource and in which certain human activities are regulated in order to protect the structure, functions and values of the resource. Water Resource Protection Zone is a category including Stream Bank Protection Zones and Wetland Protection Zones, and is used throughout this chapter to refer to Stream Bank Protection Zones and Wetland Protection Zones.

Wetlands – means those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are a type of Water Resource.

Wetlands, Locally Significant – means those wetlands identified on the Water Resources Map and determined “significant wetlands” using the criteria adopted the Oregon Department of State Lands (DSL). Locally Significant Wetlands is a type of Wetland Protection Zone.

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Wetlands, Possible – means an area that appears to meet wetland criteria but is too small (less than a half acre according to Oregon Department of State Lands (DSL) rules) to require its inclusion in the Local Wetland Inventory. The Water Resources Map notes areas that are in the Possible Wetland designation. However, there may be additional existing areas that meet the DSL wetland criteria, but are not included on the Water Resources Map. Possible Wetlands is a type of Wetland Protection Zone.

Wetland Boundary – means a line marked on a map or flagged in the field that identifies the approximate wetland/non-wetland boundary.

Wetland Buffer – means an area extending away from the outer delineated wetland boundary or upland edge that is preserved for the purpose of protecting the functions and values of the wetland by serving to reduce the adverse effects of adjacent land uses.

Wetland Delineation – means a determination of wetland presence that includes marking the wetland boundaries on the ground and/or on a detailed map prepared by professional land survey or similar accurate methods.

Wetland Functions – include wildlife habitat, fish habitat, water quality and hydrological control.

Wetland Protection Zone – an area subject to the provisions of this chapter that includes all wetlands determined to be Locally Significant and Possible Wetlands with confirmed jurisdictional wetland presence, and an associated buffer area of varying width, as established herein, located adjacent to the wetland, and in which certain human activities are regulated in order to protect the structure and functions of the wetland. A Wetland Protection Zone is a type of Water Resource Protection Zone. There are two types of Wetland Protection Zones defined, established and protected in this chapter – Locally Significant Wetlands and Possible Wetlands.

Wetland Protection Zone Boundary – an imaginary line that is measured horizontally at a standard distance upland from the delineated wetland boundary as required in Section 18.63.050.

Wetland Specialist – means an individual who has the appropriate credentials verifying proven expertise and vocational experience conducting wetland delineations.

(Ord 3000, added, 12/15/2009)

SECTION 18.63.040 Inventory of Ashland's Water Resources.

The approximate locations of Ashland's Water Resources are identified on official maps adopted by the City of Ashland and added to the Comprehensive Plan through Ordinance 2419 (May 1987), Ordinance 2528 (July 1989) and Ordinance 2999 (December 2009). Because the Comprehensive Plan maps are acknowledged to be approximate, the more precise wetland boundaries can be mapped, staked and used for development review purposes without a modification of the Comprehensive Plan maps.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.050 Establishment of Water Resource Protection Zones.

A Water Resource Protection Zone is hereby established adjacent to and including all Water Resources to protect their integrity, function and value. The boundaries of the following Water

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Resource Protection Zones shall be established by an on-site survey based upon the following standards.

A. **Stream Bank Protection Zones.** The following types of Stream Bank Protection Zones are hereby established to protect streams and their associated riparian resources. The approximate locations of streams are identified on the Water Resources Map.

1. **Riparian Corridor** – For streams classified as Riparian Corridor fish-bearing streams with an annual average stream flow less than 1,000 cubic feet per second and on the Water Resources Map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 50 feet upland from the top of bank (Figure 3).

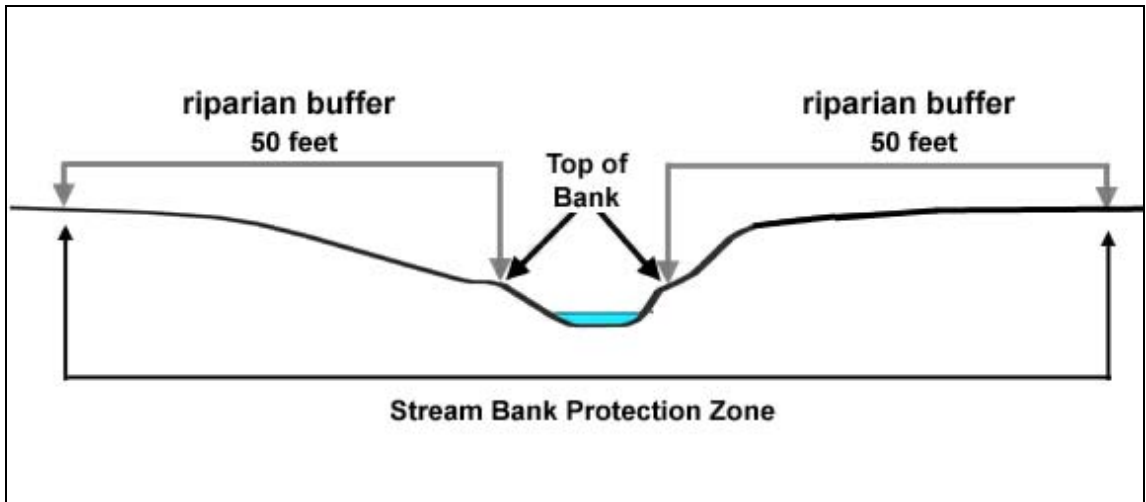


Figure 3: Stream Bank Protection Zone for Riparian Corridor Streams

2. **Local Streams** – For streams classified as non-fish-bearing Local Streams and on the Water Resources Map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands 40 feet from the centerline of the stream (Figure 4).

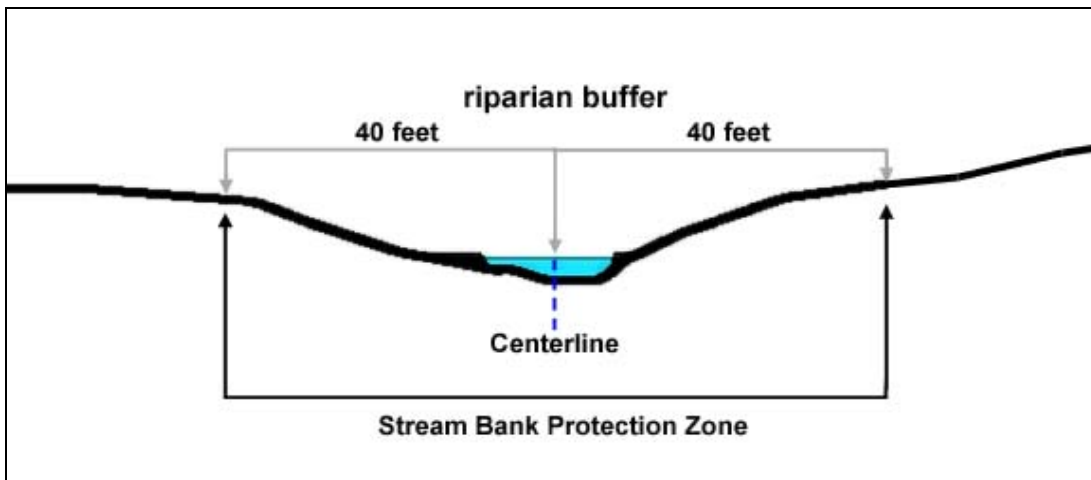


Figure 4: Stream Bank Protection Zone for Local Streams

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3. **Intermittent and Ephemeral Streams** – For streams classified as Intermittent and Ephemeral Streams on the Water Resources Map, the Stream Bank Protection Zone shall include the stream, plus a riparian buffer consisting of all lands within 30 feet from the centerline of the stream (Figure 5).

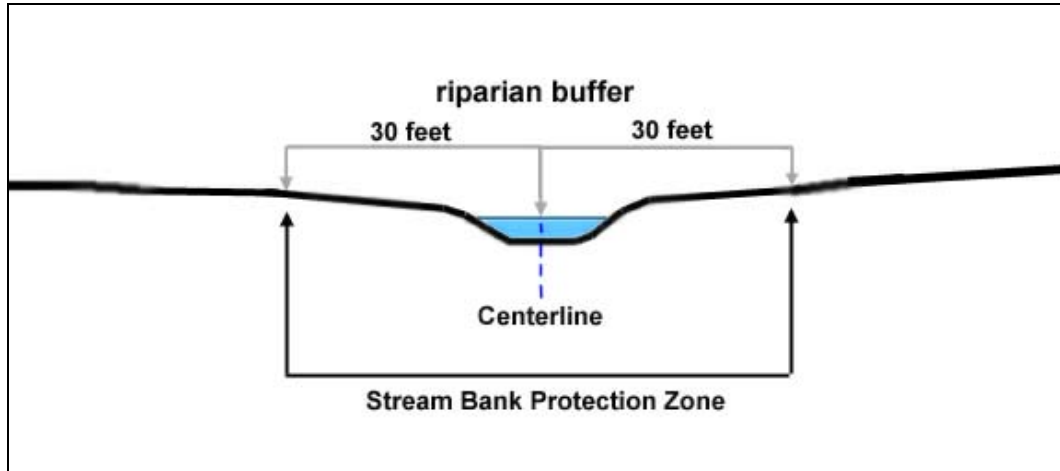


Figure 5: Stream Bank Protection Zone for Intermittent and Ephemeral Streams

4. **Significant Wetland Presence** - Where a Stream Bank Protection Zone includes all or part of a significant wetland as identified on official maps adopted by the City of Ashland, the distance to the Stream Bank Protection Zone boundary shall be measured from, and include, the upland edge of the wetland.
 5. **Determination of Protection Zone** - The measurement of the Stream Bank Protection Zones shall be a horizontal distance from the top of bank or from the center line of the stream as specified above. For streams that were piped or culverted prior to the effective date of this chapter, the Stream Bank Protection Zones shall be reduced to half of the required width or the width of any existing easement (e.g. drainage-way easement), whichever is greater.
- B. **Wetland Protection Zones.** The following types of Wetland Protection Zones are hereby established to protect wetland resources. The approximate locations of Locally Significant Wetlands and Wetlands are identified on the Water Resources Map. The precise boundary of a wetland and wetland buffer shall be established through conducting an on-site wetland delineation and survey based upon the following standards.
1. **Locally Significant Wetlands** – For wetlands classified as Locally Significant on the Water Resources Map, the Wetland Protection Zone shall consist of all lands identified to have a wetland presence on the wetland delineation, plus a wetland buffer consisting of all lands within 50 feet of the upland-wetland edge (Figure 6). A wetland delineation prepared by a qualified wetland specialist shall be submitted to the City of Ashland that graphically represents the location of wetlands on a site plan map in accordance with Section 18.63.110.A.3. An average buffer width of 50 feet may be utilized around the perimeter of a significant wetland upon submission of evidence and a detailed plan by a natural resources professional demonstrating that equal or better protection of the functions and values of the resource will be ensured, and that there will be an enhanced buffer treatment through the implementation and maintenance of a restoration and enhancement plan within the buffer area.

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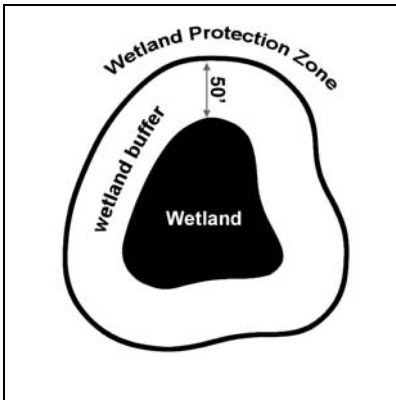


Figure 6: Wetland Protection Zone for Locally Significant Wetlands

- Possible Wetlands** – For wetlands not classified as Locally Significant on the Water Resources Map, the Wetland Protection Zone shall consist of all lands identified to have a wetland presence on the wetland delineation, plus all lands within 20 feet of the upland-wetland edge (Figure 7). Possible Wetlands includes all areas designated as such on the Water Resources Map and any unmapped wetlands discovered on site. A wetland delineation prepared by a qualified wetland specialist shall be submitted to the City of Ashland that graphically represents the location of wetlands on a site plan map in accordance with Section 18.63.110.A.3. An average buffer width of 20 feet may be utilized around the perimeter of a possible wetland upon submission of evidence and a detailed plan by a natural resources professional demonstrating that equal or better protection of the functions and values of the resource will be ensured.

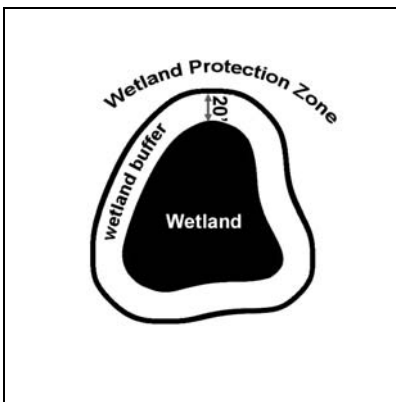


Figure 7: Wetland Protection Zone for Possible Wetlands

- Determination of Protection Zone** – The measurement of the Wetland Protection Zone shall be a horizontal distance from the upland-wetland edge as specified above.
(Ord 3000, Added, 12/15/2009)

SECTION 18.63.060 Activities and Uses Exempt from These Regulations.

- Exempt Activities Within Water Resource Protection Zones.** The following activities and uses do not require a permit or authorization under this chapter to be conducted or to continue in a Water Resource Protection Zone. Exempt activities and uses may qualify as

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development as defined in Section 18.62.030.H and may require a permit for development in Floodplain Corridor Lands Chapter.

1. **Vegetation Maintenance, Planting and Removal**

- a. **Landscaping Maintenance.** Continued maintenance of existing vegetation such as landscaping, lawn, gardens and trees.
- b. **Lawn.** Existing lawn within Water Resource Protection Zones may be maintained, but existing lawn shall not be expanded and new lawn shall not be installed.
- c. **Tree Pruning.** Maintenance pruning of existing trees shall be kept to a minimum and shall be in accordance with the Tree Preservation and Protection Chapter 18.61. Under no circumstances shall the maintenance pruning be so severe that it compromises the tree's health, longevity, or resource functions (i.e. shade, soil stability, erosion control, etc.)
- d. **Non-native, Noxious and Invasive Vegetation Removal.** Removal of non-native, noxious and invasive vegetation, and replacement with local native plant species. The act of removing non-native, noxious and invasive vegetation shall not result in the removal of native vegetation. Local native plant species for both wetland and stream bank applications are identified on the City of Ashland's Local Native Plant Species List, and noxious and invasive vegetation approved for removal is identified on the City of Ashland's Prohibited Plant List. Removal and mowing of blackberries shall occur before May 1 or after July 31 to protect nesting birds.
- e. **Hazardous Tree Removal.** Removal of a hazardous tree. A hazardous tree is a tree that is physically damaged to the degree that it is likely to fall and injure persons or property. A permit for Hazardous Tree Removal shall be processed under the procedures and approval criteria described in the Tree Preservation and Protection Chapter 18.61.
- f. **In-channel Vegetation Removal.** Removal of emergent in-channel vegetation that is likely to cause flooding using non-invasive methods such as mowing or weed-whacking that do not disturb the underlying substrate. Mechanized removal of emergent in-channel vegetation that would involve associated removal of soil below the ordinary high water line is not permitted and would otherwise be subject to state and federal wetland permitting requirements.
- g. **Routine Planting.** The planting of local native plant species or the replacement of non-native, noxious and invasive plants with local native plant species. Local native plant species for both wetland and stream bank applications are identified on the City of Ashland's Local Native Plant Species List, and noxious and invasive vegetation approved for removal is identified on the City of Ashland's Prohibited Plant List.
- h. **Use of Hand-held Equipment or Machinery.** Use of hand-held equipment or machinery for vegetation maintenance, planting and removal within Water Resource Protection Zones.
- i. **Use of Power-assisted Equipment or Machinery.** Use of power-assisted equipment or machinery for vegetation maintenance, planting and removal within Water Resource Protection Zones when soil disturbance and erosion are minimized by all of the following measures.
 - i. Use of power-assisted equipment or machinery shall occur from May 1 to October 31, and shall not occur during the remaining wet months of the year.
 - ii. The general topography of the Water Resource Protection Zone shall be retained.
 - iii. Soil compaction from construction equipment shall be reduced by distributing the weight of the equipment over a large area (e.g. laying lightweight geogrids,

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mulch, chipped wood, plywood, OSB, metal plats or other materials capable of weight distribution in the pathway of the equipment).

- iv. Local native plant species shall not be damaged or removed.
 - v. Disturbed areas shall be replanted so that landscaping shall obtain 50% coverage after one year and 90% after five years.
2. **Building, Paving and Grading**
- a. **Testing.** Site investigative work with minimal surface area disturbance conducted by or required by a city, county, state, or federal agency such as surveys, percolation tests, soil borings or other similar tests.
 - b. **Unpaved Trails.** The establishment of unpaved trails and related educational displays. Trail width shall not exceed 36 inches, stair width shall not exceed 50 inches, and trail grade shall not exceed 20% except for the portion of the trail containing stairs. Trails in public parks may be up to 72 inches in width to accommodate high pedestrian traffic areas. Trails construction within a delineated wetland boundary shall be by permit in accordance with local, state and federal permitting requirements and approved management plans.
 - c. **Storm Water Treatment Facility Maintenance.** Routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales and constructed wetlands in order to maintain flow and prevent flooding when conducted in accordance with local, state and federal permitting requirements and approved management plans. Multi-year maintenance plans for existing storm water treatment facilities without previously approved management plans require a Limited Activity and Use Permit in accordance with Section 18.63.070.A.2.
3. **Nonconforming Activities, Uses and Structures** – An activity, use or structure legally established prior to the adoption of this chapter, which would be prohibited by this chapter or which would be subject to the limitations and controls imposed by this chapter shall be considered a nonconforming activity, use or structure, and may continue subject to the following provisions.
- a. **Nonconforming Structures.** Nonconforming structures within or partially within a Water Resource Protection Zone may be maintained and used.
 - b. **Expansion of Nonconforming Structures.** Expansion of the footprint of a nonconforming structure within or partially within a Water Resource Protection Zone if the expansion of the footprint occurs outside the Water Resource Protection Zone and additional surface area in the Water Resource Protection Zone is not disturbed. Additional stories may be added to nonconforming structures if the existing building footprint with the Water Resource Protection Zone is not changed in size or shape and additional surface area in the Water Resource Protection Zone is not disturbed.
 - c. **Replacement of Nonconforming Principal Buildings in Residential Zoning Districts.** Nonconforming principal buildings within or partially within a Water Resource Protection Zone and located in residential zoning districts may be replaced or rebuilt if the existing building footprint within the Water Resource Protection Zone is not changed in size or shape and additional surface area in the Water Resource Protection Zone is not disturbed. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations Chapter 15.10.
 - d. **Replacement of Nonconforming Structures in Non-Residential Zoning Districts and Within Historic Districts.** Nonconforming structures within or partially within a Water Resource Protection Zone, located in a non-residential zoning district and within a Historic District may be replaced or rebuilt if the existing building footprint within the Water Resource Protection Zone is not changed in size or shape and

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additional surface area in the Water Resource Protection Zone is not disturbed. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations Chapter 15.10.

- e. **Previously Approved Building Envelopes and Driveways.** Previously approved building envelopes and driveways within or partially within a Water Resource Protection Zone may be built as originally approved and do not have to meet the requirements of this chapter if the following conditions are met:
 - i. Building permits are approved and construction is commenced within 36 months from the effective date of this ordinance.
 - ii. The building envelope or driveway location was established and received City of Ashland Planning Division approval prior the effective date of this ordinance.
 - iii. The building envelope is located on a vacant lot.
 - iv. The building envelope is located on a lot which was created prior to the effective date of this ordinance.
 - v. The driveway will provide access to a lot which was created prior to the effective date of this ordinance.
 - f. **Exemptions for Historic Public Parks and Properties.** Nonconforming activities, landscaping, uses and structures included in Lithia Park, Blue Bird Park and Calle Guanajuato and located in the Water Resource Protection Zone may be used, maintained and replaced, but shall not be expanded or enlarged within the Water Resource Protection Zone. Repair and reconstruction of a nonconforming structure under this section shall be in accordance with the requirements of the Flood Damage Prevention Regulations Chapter 15.10.
4. **City Emergency Activities** - Emergency repair authorized by the City Administrator or his/her designee which must be undertaken immediately, or for which there is insufficient time for full compliance with this chapter, in order to address at least one of the following.
- a. Prevent an imminent threat to public health or safety.
 - b. Prevent imminent danger to public or private property.
 - c. Prevent an imminent threat of serious environment degradation.
- B. Additional Exempt Activities and Uses within Stream Bank Protection Zones.** In addition to the Exempt Activities and Uses in Section 18.63.060.A, the following activities and uses do not require a permit or authorization under this chapter to be conducted or to continue in a Stream Bank Protection Zone.
- 1. **Fire Hazard Prevention** – Cutting or thinning of vegetation for fire hazard prevention provided that the cutting or thinning is the minimum necessary to alleviate the potential fire hazard and is consistent with City standards for Wildfire Lands described in the Physical and Environmental Constraints Chapter 18.62.
 - 2. **Stream Restoration and Enhancement** – Stream restoration and enhancement projects when all of the following are met.
 - a. The restoration and enhancement results in a net gain in stream bank corridor functions.
 - b. The lot is in a residential zoning district and occupied only by a single-family dwelling and accessory structures.
 - c. The property has not undergone stream restoration and enhancement work in the past 12 months.
 - d. The restoration and enhancement project does not involve in-stream work.

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- e. The restoration and enhancement project may include minor earth moving activities involving excavation or placement of up to five cubic yards of soil and earth-moving activity disturbing a surface area of no more than 1,000 square feet.
 3. **Fences** – Fences limited to open wire, electric or similar fence that will not collect debris or obstruct flood waters, but not including wire mesh or chain link fencing, may be installed in the upland half of the riparian buffer furthest away from the stream. Solid wood fencing is prohibited in Water Resource Protection Zones. Fencing in a designated floodplain shall conform to the requirements of Section 18.62.070.K.
 4. **Outdoor Patio Areas** – Outdoor patio areas consisting of porous solid surfaces up to 150 square feet in size per lot, but not including decks, may be constructed in the upland half of the riparian buffer furthest away from the stream.
 5. **Public Utility Maintenance and Replacement** – Routine maintenance and replacement of existing public utilities and irrigation pumps if work disturbs no more total surface area than the area inside the public utility easement and up to an additional five percent surface area of the public utility easement outside of the public utility easement.
 6. **Private Utility Maintenance and Replacement** – Routine maintenance and replacement of existing private utilities and irrigation pumps.
 7. **Driveway and Street Maintenance and Paving** – Maintenance, paving and reconstruction of existing public and private streets and driveways if work disturbs no more total surface area than the area inside the street right-of-way or access easement and up to an additional five percent surface area of the street right-of-way or access easement outside of the right-of-way or easement. Public streets shall be located in public right-of-way or a public easement.
- C. **Additional Exempt Activities and Uses within Wetland Protection Zones.** In addition to the Exempt Activities and Uses in section 18.63.060.A, the following activities and uses do not require a permit or authorization under this chapter to be conducted or to continue in a Wetland Protection Zone.
1. **Fire Hazard Prevention** – Perimeter mowing or thinning of vegetation only within the wetland buffer for fire hazard prevention provided that the mowing or thinning is the minimum necessary to alleviate the potential fire hazard and is consistent with City standards for Wildfire Lands described in the Physical and Environmental Constraints Chapter 18.62.
 2. **Fences** – Fences limited to open wire, electric or similar fence that will not collect debris or obstruct flood waters, but not including wire mesh or chain link fencing, may be installed in the wetland buffer. Solid wood fencing is prohibited in Water Resource Protection Zones. Fencing in a designated floodplain shall conform to the requirements of Section 18.62.070.K.

(Ord 3000, added, 12/15/2009, Ord 3045, Amended, 04/15/2011)

SECTION 18.63.070 Limited Activities and Uses within Water Resource Protection Zones.

The following activities and uses within Water Resource Protection Zones are allowed under a Type I land use procedure provided the activities or uses comply with the approval standards set forth in Section 18.63.070.D.

A. Limited Activities and Uses within Water Resource Protection Zones.

1. **Use of Power-assisted Equipment or Machinery** – Use of power-assisted equipment or machinery for vegetation maintenance unless otherwise exempted in Section 18.63.060.A.1.i.

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2. **Multi-year Maintenance Plans** – Multi-year maintenance plans may be authorized as follows for existing areas or storm water treatment facilities in Water Resource Protection Zones which do not have a previously approved management plans.
 - a. **Publicly and Commonly Owned Properties.** The routine restoration and enhancement of publicly and commonly owned properties such as public parks and private open spaces.
 - b. **Storm Water Treatment Facilities.** The ongoing routine maintenance of storm water treatment facilities such as detention ponds or sediment traps, vegetated swales and constructed wetlands in order to maintain flow and prevent flooding. Routine maintenance of storm water treatment facilities in accordance with an approved management plan is exempted as outline in Section 18.63.060.A.2.c.
 3. **Building, Paving, and Grading Activities** – Permanent alteration of Water Resource Protection Zones by grading or by the placement of structures, fill or impervious surfaces may be authorized as follows.
 - a. **New Public Access and Utilities.** The location and construction of public streets, bridges, trails, multi-use path connections and utilities deemed necessary to maintain a functional system and upon finding that no other reasonable, alternate location outside the Water Resource Protection Zone exists. This title, the Comprehensive Plan, Transportation System Plan, adopted utility master plans and other adopted documents shall guide this determination.
 - b. **New Private Access and Utilities.** The location and construction of private streets, driveways and utilities to provide a means of access to an otherwise inaccessible or landlocked property where no other reasonable, alternate location outside the Water Resource Protection Zone exists.
 - c. **Storm Water Treatment Facility Installation.** Installation of public and private storm water treatment facilities such as detention ponds or sediment traps, vegetated swales and constructed wetlands.
 - d. **Replacement of Nonconforming Accessory Structures in Residential Districts and Replacement of Nonconforming Structures in Non-Residential Zoning Districts and Outside Historic Districts.** Replacement of nonconforming structures located within or partially within the original building footprint, except those nonconforming principal buildings exempted in Section 18.63.060.A.3, provided replacement does not disturb additional surface area within the Water Resource Protection Zone.
- B. **Additional Limited Activities and Uses within Stream Bank Protection Zones.** In addition to the Limited Activities and Uses in Section 18.63.070.A, the following activities and uses with the Stream Bank Protection Zones are allowed under a Type I land use procedure provided the activities or uses comply with the approval standards set forth in Section 18.63.070.D.
1. **Stream Restoration and Enhancement** – Restoration and enhancement projects resulting in a net gain in stream bank corridor functions unless otherwise exempted in Section 18.63.060.B.2. Restoration and enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.
 2. **Driveway and Street Maintenance and Paving** -- Maintenance, paving, and reconstruction of existing public and private streets and driveways if work disturbs more total surface area than the area inside the street right-of-way or access easement and an additional five percent surface area of the street right-of-way or access easement

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outside of the right-of-way or easement. Public streets shall be located in public right-of-way or a public easement.

3. **Public Facility Paving and Reconstruction** – Paving and reconstruction of public parking areas and walkways if additional surface area in the Stream Bank Protection Zone is not disturbed, the public facilities are deemed necessary to maintain a functional system and upon finding that no other reasonable alternate location outside the Water Resource Protection Zone exists.
4. **Public Utility Maintenance and Replacement** – Routine maintenance and replacement of existing public utilities and irrigation pumps if work disturbs more total surface area than the area inside the public utility easement and an additional five percent surface area of the public utility easement outside of the public utility easement.
5. **Erosion Control** – Erosion control and stream bank stabilization measures that have been approved by the Oregon Department of State Lands (DSL), the U.S. Army Corps of Engineers, or other state or federal regulatory agencies, and that utilize non-structural bio-engineering methods.
6. **Storm Water Outfall** – Construction of a storm water outfall discharging treated storm water from an adjacent developed area provided that the discharge meets local, state and federal water quality regulations.
7. **Bridges** – The installation of a bridge or similar, bottomless crossing structure for the purpose of constructing a public or private street, bicycle or pedestrian crossing, as well as to provide a means of access to an otherwise inaccessible or landlocked property.
8. **Flood Control Measures** – Installation or expansion of structural flood control measures, including but not limited to concrete retaining walls, gabions, gravity blocks, etc., shall generally be prohibited, but approved only if demonstrated that less-invasive, non-structural methods will not adequately meet the stabilization or flood control needs.

C. **Additional Limited Activities and Uses within Wetland Protection Zones.** In addition to the Permitted Activities and Uses in Section 18.63.070.A, the following activities and uses with the Wetland Protection Zones are allowed under a Type I land use procedure provided the activities or uses comply with the approval standards set forth in Section 18.63.070.D.

1. **Wetland Restoration and Enhancement** – Wetland restoration and enhancement projects resulting in a net gain in wetland functions. Wetland restoration and enhancement activities not otherwise associated with development involving building, grading or paving are encouraged, and planning application fees associated with reviewing these activities for compliance with applicable land use standards may be waived by the Staff Advisor.
2. **Driveway and Street Maintenance and Paving** – Maintenance, paving, and reconstruction of existing public and private streets and driveways. Public streets shall be located in public right-of-way or public easement.
3. **Public and Private Utility Maintenance and Replacement** – Routine maintenance and replacement of existing public and private utilities that disturb lands within the Wetland Protection Zone.

D. **Approval Standards for Limited Activities and Uses within Water Resource Protection Zones.** All Limited Activities and Uses within Water Resource Protection Zones described in Section 18.63.070 shall be processed as a Type I land use procedure. The approval authority may approve or approve with conditions a request to conduct Limited Activities and Uses in a Water Resource Protection Zone based upon findings that the following standards have been satisfied.

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1. All activities shall be located as far away from streams and wetlands as practicable, designed to minimize intrusion into the Water Resources Protection Zone and disturb as little of the surface area of the Water Resource Protection Zone as practicable.
2. The proposed activity shall be designed, located and constructed to minimize excavation, grading, area of impervious surfaces, loss of native vegetation, erosion, and other adverse impacts on Water Resources.
3. On stream beds or banks within the bank full stage, in wetlands, and on slopes of 25% or greater in a Water Resource Protection Zone, excavation, grading, installation of impervious surfaces, and removal of native vegetation shall be avoided except where no practicable alternative exists, or where necessary to construct public facilities or to ensure slope stability.
4. Water, storm drain and sewer systems shall be designed, located and constructed to avoid exposure to floodwaters, and to avoid accidental discharges to streams and wetlands.
5. Stream channel repair and enhancement, riparian habitat restoration and enhancement and wetland restoration and enhancement will be restored through the implementation of a mitigation plan prepared in accordance with the standards and requirements in Section 18.63.120.
6. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in Section 18.63.120.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.080 Water Resource Protection Zone Reductions.

A Water Resource Protection Zone may be reduced by up to 25% through a Type I land use procedure, and by greater than 25% and up to 50% through a Type II land use procedure to allow alteration within the Water Resource Protection Zone based upon findings that the following approval criteria have been satisfied.

- A. The proposed use or activity is designed to avoid intrusion into the Water Resource Protection Zone through the use of up to a 50% reduction of any dimensional standards (e.g. required front, side and rear yard setbacks; required distance between buildings) to permit development as far outside or upland of the Water Resource Protection Zone as possible. Such adjustment to any applicable dimensional standards shall be reviewed as part of the requested reduction, and shall not be subject to a separate Variance application under Chapter 18.100. Reductions to dimensional standards may not be used to reduce required Solar Access setbacks without evidence of agreement by the effected property owner(s) to the north through a concurrent Solar Access Variance application as described in Section 18.70.060.
- B. The alteration of the Water Resource Protection Zone is the minimum necessary to efficiently perform the proposed activity and/or use. The proposed development shall minimize disturbance to the Water Resource Protection Zone by utilizing the following design options to minimize or reduce impacts of development.
 1. Multi-story construction shall be considered.
 2. Parking spaces shall be minimized to no more than that required as a minimum for the use.

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3. Pavement shall be minimized, and all pavement used shall be installed and maintained in a pervious paving material.
 4. Engineering solutions shall be used to minimize additional grading and/or fill.
- C. The application demonstrates that equal or better protection for identified resources will be ensured through restoration, enhancement and mitigation measures. The structures, functions and values of the Water Resource will be restored through the implementation of a restoration and enhancement strategy set forth in a mitigation plan prepared in accordance with the standards and requirements described in Section 18.63.120.
- D. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in Section 18.63.120.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.
(Ord 3000, Added, 12/15/2009)

SECTION 18.63.090 Hardship Variances.

Hardship Variances shall be processed as a Type II land use procedure. Hardship Variances are not subject to the Variance requirements of Chapter 18.100. The approval authority may approve or approve with conditions a request for a Hardship Variance based upon findings that the following approval criteria have been satisfied.

- A. The application of this chapter unduly restricts the development or use of the lot, and renders the lot not buildable.
- B. The proposed activity or use of land would have been permitted prior to the effective date of this ordinance.
- C. The applicant has explored all other reasonable options available under this chapter and throughout the Ashland Land Use Ordinance to relieve the hardship.
- D. Adverse impacts on the structures, functions or values of the resource including water quality, erosion, or slope stability that would result from approval of this Hardship Variance have been minimized and will be mitigated to the greatest extent possible through restoration and enhancement of the Water Resource Protection Zone in accordance with a mitigation plan prepared in accordance with the standards and requirements in Section 18.63.120.
- E. Long term conservation, management and maintenance of the Water Resource Protection Zone shall be ensured through preparation and recordation of a management plan as described in Section 18.63.120.C, except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.
(Ord 3000, Added, 12/15/2009)

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SECTION 18.63.100 Approval Standards for Land Divisions and Property Line Adjustments within Water Resource Protection Zones

Planning actions and procedures containing Water Resource Protection Zones and involving the division of land or lot line adjustments shall comply with the following provisions and shall include the plan requirements in Section 18.63.110.A.3.

- A. **Building Envelope Established.** Each lot shall contain a building envelope outside the Water Resource Protection Zone of sufficient size to permit the establishment of the use and associated accessory uses.
- B. **Conservation Area.** Performance Standards Option Subdivision, Subdivision, Partition, and Site Design Review applications shall include the Water Resource Protection Zone within a conservation easement or recorded development restriction, which stipulates that the use or activity within the Water Resource Protection Zone shall be consistent with the provisions of this chapter. The approval authority may require that the Water Resource Protection Zone be included in a separate tract of land managed by a homeowners' association or other common ownership entity responsible for preservation.
- C. **Density Transfer.** Density calculated from the land area contained within the Water Resource Protection Zone may be transferred to lands outside the Water Resource Protection Zone provided the following standards are met.
 - 1. Partitions and subdivisions involving density transfer shall be processed under the Performance Standards Options Chapter 18.88.
 - 2. A map shall be submitted showing the land area not within the Water Resource Protection Zone to which the density will be transferred.
 - 3. The Water Resource Protection Zone shall be included in a separate preservation tract to be managed by a homeowner's association or other common ownership entity responsible for management of the area.
 - 4. Density may only be transferred within the subject property or to a lot or lots contiguous to the subject property and within the same ownership.
 - 5. The density transferred to lands not within the Water Resource Protection Zone may not be increased to more than one and a half times the base density of the underlying zoning district. Fractional units are to be rounded down to the nearest whole number.
- D. **Management Plan.** Long term conservation, management and maintenance of the Water Resource Protection Zone consistent with the requirements of this chapter shall be ensured through preparation and recordation of a management plan as described in Section 18.63.120.C.
- E. **Mitigation Requirements.** The approval authority may require a mitigation plan in accordance with the requirements of Section 18.63.120 to mitigate impacts resulting from land divisions.
- F. **Exemptions for a Public Purpose.** An exemption to the requirements described above shall be granted for lots created for public park purposes, or privately-owned tracts created for the sole purpose of conserving in perpetuity the natural functions and values of the lands contained within the Water Resource Protection Zone.

(Ord 3000, Added, 12/15/2009)

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SECTION 18.63.110 Plan Requirements.

- A. **Required Plans and Information.** The following plans and information shall be submitted with the application for activities and uses in a Water Resource Protection Zone which are required to be processed under a Type I or Type II land use procedure including Limited Activities and Uses, Water Resource Protection Zone Reductions and Hardship Variances.
1. A narrative description of all proposed activities and uses including the extent to which any Water Resource Protection Zone is proposed to be altered or affected as a result of the proposed development activity or use (in terms both of square footage of surface disturbance and cubic yards of overall disturbance).
 2. Written findings of fact addressing all applicable development standards and approval criteria.
 3. Site development plan map, drawn to scale - The application shall include a site map of the subject property prepared by a licensed surveyor, civil engineer or other design professional that includes the information described below. The Staff Advisor may request additional information based upon the character of the site or the specific nature of the proposal.
 - a. All watercourses identified (including any drainage ways, ponds, etc).
 - b. Surveyed location of the Water Resource Protection Zone, as described in Section 18.63.050. For applications involving single-family residences or Limited Activities and Uses, in lieu of a surveyed location, the Staff Advisor may approve a field determination of the Water Resource Protection Zone by the Staff Advisor or his/her designee in which the applicant shall be required to stake the top-of-bank or the upland-wetland edge and the boundary of the Water Resource Protection Zone.
 - c. For activities and use proposed within a Stream Bank Protection Zone: identification of the stream as being either fish-bearing or non-fish-bearing; identification of the top-of-bank or center line as required; and surveyed location of the stream's floodway and floodplain, if applicable.
 - d. For activities and uses proposed within a Wetland Protection Zone: a wetland delineation (with an accompanying site map) prepared by a natural resource professional and that has been concurred with by the Oregon Department of State Lands (DSL); and an aerial photo with the wetland boundaries identified.
 - e. Topographic information at two foot contour increments identifying both existing grades and proposed grade changes.
 - f. Surveyed locations of all trees six inches in diameter at breast height (dbh) or greater located in the Water Resource Protection Zone and within 15 feet of the Water Resource Protection Zone, identified by edge of canopy, diameter at breast height and species;
 - g. The outlines of non-tree vegetation, with a dominant species and any occurrence of non-native, invasive species identified.
 - h. Location of existing and proposed development, including all existing and proposed structures, any areas of fill or excavation, stream or wetland crossings, alterations to vegetation, or other alterations to the site's natural state.
 - i. The location of natural features, proposed and existing structures, and other proposed and existing improvements associated with lands within 100 feet of the Water Resource Protection Zone.
 - j. Proposed and existing land uses within 100 feet of the Water Resource Protection Zone.
 - k. The location of temporary fencing and erosion control measures installed to prevent encroachment and flow of material into the Water Resource Protection Zone, such as sediment fencing and hay bales, etc.

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- l. North arrow and scale.
- m. Sources of information (federal, state and local).
- 4. Mitigation Plan prepared in accordance with the requirements described in section 18.63.120.
- 5. Management Plan prepared in accordance with the requirements described in Section 18.63.120.C., except a management plan is not required for residentially zoned lots occupied only by a single-family dwelling and accessory structures.

B. Building Permits and Development Activities. When approval of a planning action is not required, other permit applications for the construction of structures or other development activities on properties containing Water Resource Protection Zones shall be reviewed by the Staff Advisor to assure that Water Resource Protection Zones are accurately identified on a site plan and that Limited Activities and Uses or other site disturbances will not be conducted within the Water Resource Protection Zone.

- 1. **Temporary Fencing and Erosion Control Measures** – Temporary fencing and erosion control measures may be required to be installed to prevent encroachment and flow of material or other debris into the Water Resource Protection Zone and to otherwise prevent impacts to the Water Resource Protection Zone by clearly identifying its boundaries. When required, these measures shall be installed and site-verified by the Staff Advisor before any permits are issued and prior to the commencement of excavation, grading, site clearing, construction or similar site work resulting in changes to the land.

C. Required Information Waived – Determination. Applications under this chapter involving properties containing a Water Resource Protection Zone shall accurately indicate the locations of these features and all other information as described and required above. The Staff Advisor may waive one or more of the required elements of the site development plan map in Section 18.63.110.A.3 if evidence is provided conclusively demonstrating that proposed excavation, grading, site clearing, construction or similar actions resulting in changes to the property are not located within the boundaries of the Water Resource Protection Zone.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.120 Mitigation Requirements.

A. Vegetation Preservation and Construction Staging. The following standards shall be addressed in mitigation plans to protect vegetation identified for preservation and water resources from sedimentation when construction activity is proposed within a Water Resources Protection Zone.

- 1. Work areas on the immediate site shall be identified and marked to reduce damage to trees and vegetation. Temporary construction fencing shall be placed at the drip line of trees bordering the work area. No equipment maneuvering, staging or stockpiling shall occur outside of designated work areas.
- 2. Trees shall not be used as anchors for stabilizing equipment.
- 3. Stockpiling of soil, or soil mixed with vegetation, shall not be permitted in Water Resource Protection Areas on a permanent basis. Temporary storage shall employ erosion control measures to ensure sediments are not transported to adjacent surface waters.
- 4. Temporary erosion control measures shall be installed to prevent encroachment and flow of runoff, material or other debris into the Water Resource. These measures shall

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be installed prior to the commencement of excavation, grading, site clearing, construction or similar site work resulting in changes to the land. Access roads, staging areas, storage areas and other areas of temporary disturbance necessary to complete the proposed activity shall be restored as soon as possible, but not more than 90 days after authorized land disturbance. Erosion control measures shall be in place concurrently with construction or establishment of the proposed activity. Temporary measures used for initial erosion control shall not be left in place permanently.

B. Options for Satisfying Restoration and Enhancement Requirements in Mitigation Plans. Mitigation plans are required to meet the standards in either the Prescriptive Option or Alternative Option as follows.

1. **Prescriptive Option** The mitigation plan shall meet the following standards.
 - a. **Re-planting Timeline.** Re-planting shall occur within 90 days of authorized land disturbance.
 - b. **Restoration Area Ratio.** Disturbed areas shall be re-planted and an additional area restored, re-planted and enhanced at a one square foot to one and a half square feet (1:1.5) ratio (e.g. if 100 square feet of surface area is disturbed, 150 square feet shall be restored, re-planted and enhanced).
 - c. **Local Native Plant Species Coverage.** The Stream Bank Protection Zone shall be a minimum of 50% plant coverage in local native plant species with the installation of new trees only to consist of native trees (Figures 8, 9 and 10). The Wetland Protection Zone shall be 100% plant coverage in local native plant species and in accordance with local, state and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City of Ashland's Local Native Plant Species List. The use of noxious and invasive plants on the City of Ashland's Prohibited Plant List in Water Resource Protection Zones is prohibited.

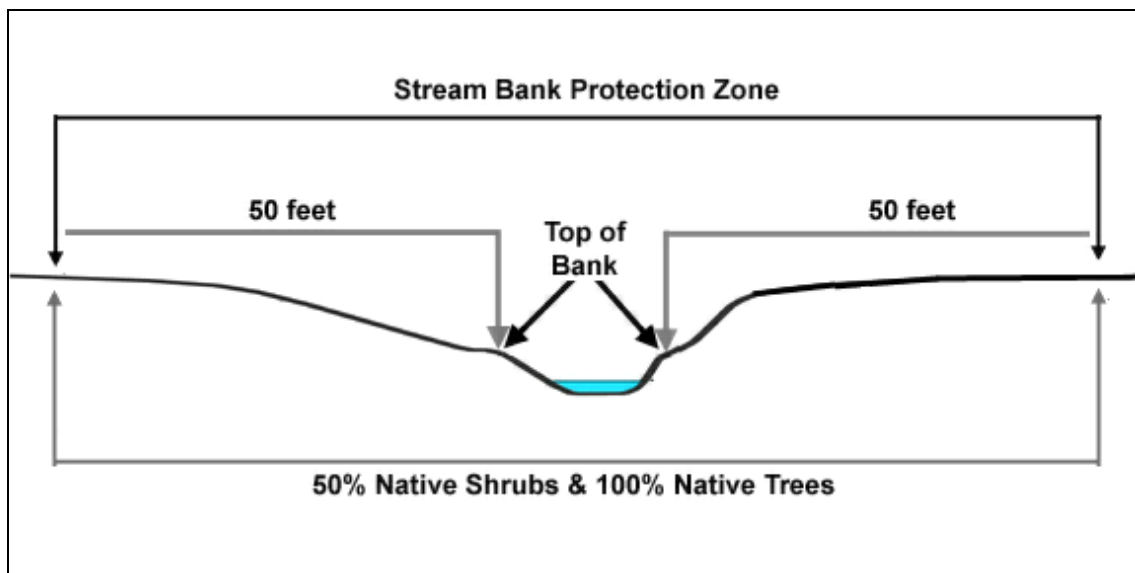


Figure 8: Native Plant Requirements for Riparian Corridor Streams

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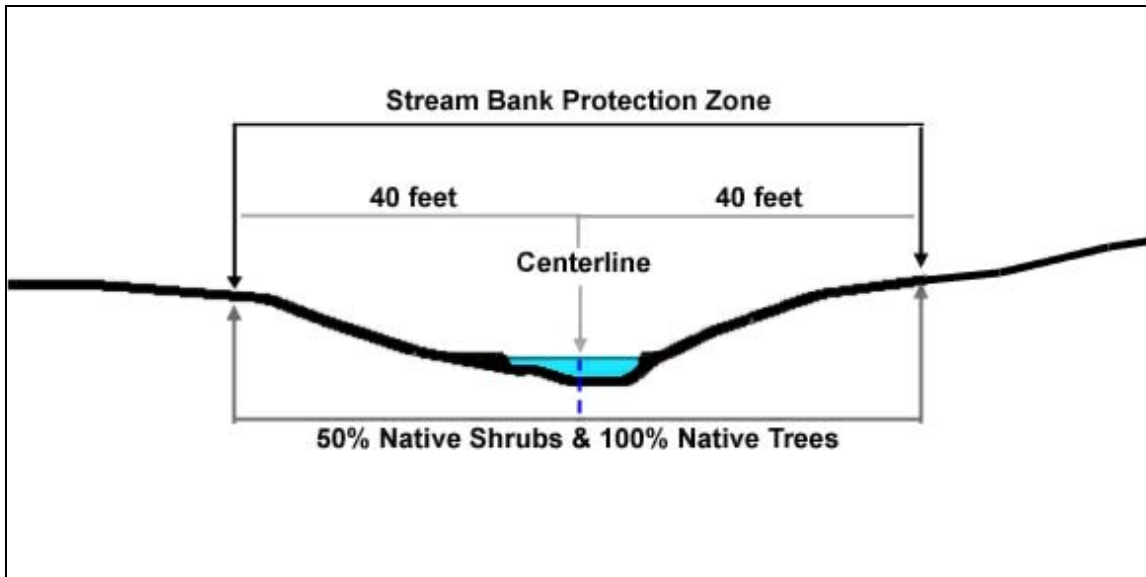


Figure 9: Native Plant Requirements for Local Streams

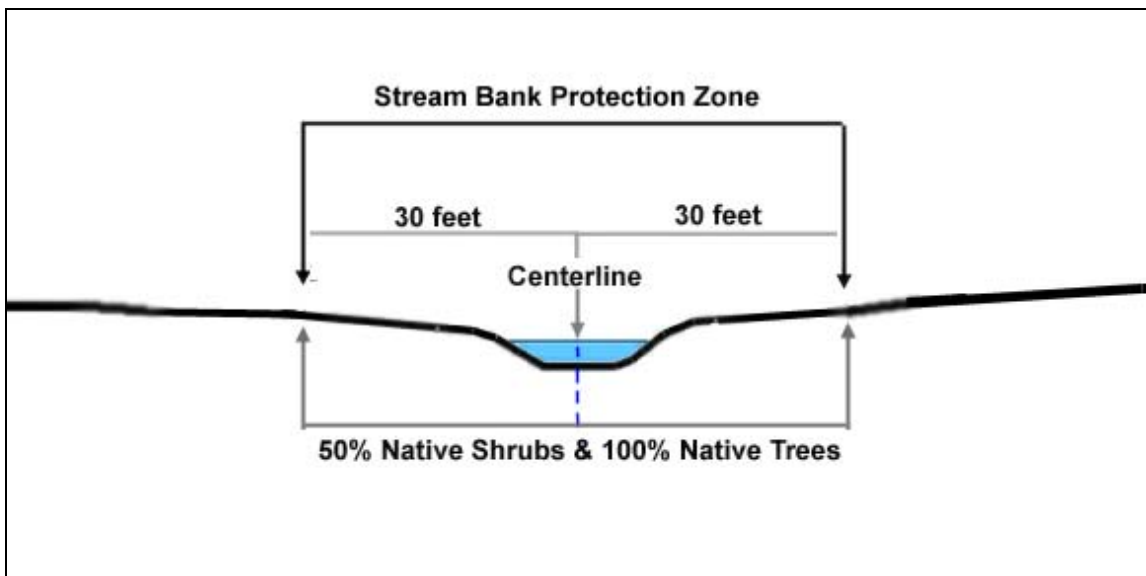


Figure 10: Native Plant Requirements for Intermittent and Ephemeral Streams

d. **Re-planting Priorities.**

- i. Priority shall be given to removal of noxious and invasive vegetation and planting of local native plant species.
- ii. Plant materials shall be located in such a manner as to maximize enhancement and restoration of the Water Resource Protection Zone, with particular emphasis on temperature reduction of watercourses, erosion control, bank stabilization and wildlife habitat enhancement.
- iii. Nearby riparian plant communities should be used as a guide for developing a re-vegetation plan.

- e. **Shrub and Tree Requirements.** Re-planting shall include shrubs and tree canopy layers in accordance with the following coverage and spacing requirements.

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consist of native trees (Figures 8, 9 and 10). The Wetland Protection Zone shall be 100% plant coverage in local native plant species and in accordance with local, state and federal approved management plans. Local native plant species for stream bank and wetland applications are identified on the City of Ashland's Local Native Plant Species List. The use of noxious and invasive plants on the City of Ashland's Prohibited Plant List in Water Resource Protection Zones is prohibited. The landscape plan shall address the plant coverage by local native plant species after five years, and shall be size and species-specific, with details addressing the timing of plantings, proposed plant placement and plant spacing.

- C. **Management Plan.** The applicant shall implement a management plan for the Water Resource Protection Zone and resource areas under the applicant's ownership or control, including the areas restored and enhanced to assure long term conservation and maintenance. The management plan shall detail proposed monitoring and maintenance, and shall include a schedule delineating how completed projects will be monitored and reported to the Staff Advisor. The management plan shall contain the following requirements.
1. The approved mitigation plan.
 2. Identification of Water Resources and Water Resource Protection Zone management practices to be conducted and proposed intervals.
 3. The following statements.
 - a. "There shall be no alteration of the Water Resource Protection Zones as delineated and shown on the attached plan" (attach reduced plan).
 - b. "There shall be no alteration of the size, shape or design of an approved Water Resource Protection Zone without prior approval by the City of Ashland".
 - c. "There shall be no amendment or change to this Management Plan without prior approval of the City of Ashland".
 4. Provisions for the ongoing removal and management of noxious or invasive vegetation and debris.
 5. Provisions for the protection of protected plant and animal species in accordance with recommendations from applicable state and federal agencies.
 6. Specific provisions for city enforcement of the management plan.
 7. Any additional measures deemed necessary to protect and maintain the structures, functions and values of the Water Resource Protection Zone (e.g. signage delineating preservation boundaries).
 8. Provisions for the perpetual protection and maintenance of the Water Resource and Water Resource Protection Zone including but not limited to the following.
 - a. Recordation of a conservation easement or Conditions, Covenants, and Restrictions (CC&Rs) which prescribe the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
 - b. Transfer of the ownership and maintenance responsibilities for the area to a willing public agency, non-profit association or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions set forth in the approved planning application, development permit, building permit, or proposed public facilities plans, and any imposed by state or federal permits.
 - c. Other mechanisms addressing long-term protection, maintenance and mitigation consistent with the purposes and requirements of this ordinance as deemed appropriate and acceptable by the approval authority.

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- D. **A Performance Guarantee.** In general, mitigation shall be implemented prior to or concurrently with the project. The approval authority may require a performance bond or similar monetary insurance of up to 110% of the proposal's cost to guarantee that the mitigation proposal will be carried out as approved, and to ensure that the objectives are met through demonstration of compliance with measurable standards and that the site will be maintained to keep the Water Resource functioning properly.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.130 Map Errors and Adjustments.

- A. **Map Errors and Adjustments.** The Staff Advisor may authorize a correction to a wetland on the Water Resources Map when the applicant has shown that a mapping error has occurred and the error has been verified by the Oregon Department of State Lands (DSL). Delineations verified by DSL shall be used to automatically update the Water Resources Map and record the wetland delineation document. No formal variance application or plan amendment is required for map corrections where an approved delineation with a DSL letter of concurrence is provided. Approved delineations shall be subject to the terms of expiration set forth in the DSL approval.

(Ord 3000, Added, 12/15/2009)

SECTION 18.63.140 Enforcement and Penalties.

- A. **Fine.** A violation of any provision of this chapter, a permit issued under this chapter or any condition of a permit issued under this chapter shall be a violation as defined by General Penalty Chapter 1.08 and punishable by a fine as set forth in that section.
- B. **Mitigation and Management.** Within 30 days of notification by the City of Ashland Planning Division of a violation of a provision of this chapter or any condition of a permit issued under this chapter, mitigation shall be required and the Staff Advisor may require the property owner to submit a mitigation plan prepared by a natural resource professional and in accordance with Section 18.63.120.B.
- C. **Enforcement Fee.** In addition to a fine, the court may impose an enforcement fee as restitution for the enforcement costs incurred by the City. This fee may be imposed upon any person who violates any provision of this chapter or who violates any permit or condition of any issued permit under this chapter. The fee shall be in an amount established by resolution of the City Council.

(Ord 3000, Added, 12/15/2009)

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CHAPTER 18.64

SOUTHERN OREGON UNIVERSITY

SECTIONS:

- 18.64.010 Purpose.**
- 18.64.020 Permitted Uses.**
- 18.64.030 Conditional Uses.**
- 18.64.040 General Regulations.**

SECTION 18.64.010 Purpose.

This district is designed to provide for the unique needs of SOU as a State educational institution functioning within the planning framework of the City. It can be applied to all areas now or hereinafter owned by the State of Oregon acting by and through the State Board of Higher Education and Southern Oregon University and located within the SOU boundary, as shown on the SOU Plan, adopted by SOU and approved by the City.

(ORD 3015, amended, 06/01/2010; ORD 2951, amended, 07/01/2008)

SECTION 18.64.015 Definitions.

For the purpose of this Chapter, the term "SOU Plan" means the Campus Master Plan Update for Southern Oregon University dated 12 April 2010, with all conditions added by the City Planning Commission and City Council as adopted and incorporated into the Ashland Comprehensive Plan by Ordinance No. 3014 on June 1, 2010 on June 1, 2010.

(ORD 3015, amended, 06/01/2010)

SECTION 18.64.020 Permitted Uses.

- A. Uses permitted outright are all those which are directly related to the educational functions of SOU, provided that such uses are indicated and located in conformance with the adopted and City approved SOU Plan, and are greater than fifty (50) feet from privately owned property.
- B. Wireless Communication Facilities authorized pursuant to Section 18.72.180.

(ORD 3015, amended, 06/01/2010; ORD 2951, amended, 07/01/2008)

SECTION 18.64.030 Conditional Uses.

- A. Any use, site design, or construction or alteration of same not agreed upon in advance by the City and SOU in the SOU Plan.
- B. Any use, site design, or construction within fifty (50) feet of privately-owned property.
- C. Any construction over forty (40) feet in height.
- D. Wireless Communication Facilities not permitted outright and authorized pursuant to Section 18.72.180.

(ORD 2951, amended, 07/01/2008)

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SECTION 18.64.040 General Regulations.

This Chapter, together with the Site Review, Sign and Off-Street Parking Chapters of this Title, are the only portions of the Title to be effective within the SOU zone, except for areas within fifty (50) feet of privately-owned land, which are subject to the Chapter on Conditional Use Permits. In addition, the creation or vacation of public streets or public ways shall be subject to mutual agreement between the City and SOU and all other applicable laws.

(ORD 2951, amended, 07/01/2008)

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CHAPTER 18.68

GENERAL REGULATIONS

SECTIONS:

18.68.010	Fences.
18.68.020	Vision Clearance Area.
18.68.030	Access.
18.68.040	Yard Requirements.
18.68.050	Arterial Street Setback Requirements.
18.68.070	Land Surveys.
18.68.080	Commercial Excavation--Removal of Earth Products.
18.68.090	Nonconforming Uses and Structures.
18.68.100	Slope; Hillside Protection. Repealed in its entirety, Ord 2528, 7/5/89.
18.68.110	Front Yard— General Exception.
18.68.120	Utilities.
18.68.130	Lot Size Requirements--General Exception.
18.68.140	Accessory Buildings, Structures and Mechanical Equipment.
18.68.150	Waiver of Right to Remonstrate and Consent to Participate in Costs of Improvements.
18.68.160	Driveway Grades.

SECTION 18.68.010 Fences.

Fences, walls, hedges and screen planting shall be subject to the following standards:

- A. In any required front yard, provided they do not exceed three and one-half (3 ½) feet in height.
- B. In any rear or side yard, provided they do not exceed six and one-half (6 ½) feet in height.
- C. The height of fences or walls in rear or sideyard setback areas abutting a public street shall be forty-eight (48) inches or less if said fences or walls are within ten (10) feet of any public street except an alley.
- D. The framework for newly constructed fences and walls shall face toward the builder's property, except where fences are jointly constructed.
- E. Fences shall lean at an angle from the vertical plane no greater than five (5%) percent. In cases where this limitation is exceeded and a written complaint is received by the Planning Department, the property owner shall be notified, in writing, of the problem. The Planning Department shall take action only on the basis of a written complaint, or on its own action.

SECTION 18.68.020 Vision Clearance Area.

Vision clearance areas shall be provided with the following distances establishing the size of the vision clearance area:

- A. In any R district, the minimum distance shall be twenty-five (25) feet or, at intersections including an alley, ten (10) feet.

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- B. In all other districts except the C-1, E-1, and CM districts, the minimum distance shall be fifteen (15) feet or, at intersections, including an alley, ten (10) feet. When the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.
- C. The vision clearance area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding two and one-half (2 ½) feet in height, measured from the top of the curb, except that street trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the grade.
- D. The vision clearance standards established by this section are not subject to the Variance section of this title. (Ord 2605, S1, 1990; Ord 3036, amended, 08/17/2010)

SECTION 18.68.030 Access.

Each lot shall have a minimum width of forty (40) feet upon a public street (other than an alley). This requirement may be decreased to twenty-five (25) feet on a cul-de-sac vehicle turn-around area. Except with an approved flag partition, no lot shall abut upon a street for a width of less than twenty-five (25) feet.

SECTION 18.68.040 Yard Requirements.

All yard measurements to and between buildings or structures or for the purpose of computing coverage or similar requirements shall be made to the building or nearest projection. Architectural projections may intrude eighteen (18) inches into required yards. (Ord 2951, 07/01/2008)

SECTION 18.68.050 Arterial Street Setback Requirements.

The setback from an arterial street shall be no less than twenty (20) feet, or the width required to install sidewalk and parkway improvements, consistent with the City of Ashland Street Standards in Section 18.88.020.K, whichever is less. (Ord 2959, 8/1/2008; Ord 3036, amended, 08/17/2010, Ord 3054, amended 12/16/2011)

SECTION 18.68.070 Land Surveys.

Before any action is taken pursuant to this Title which would cause adjustments or realignment of property lines, required yard areas, or setbacks, the exact lot lines shall be validated by location of official survey pins or by a survey performed by a licensed surveyor.

SECTION 18.68.080 Commercial Excavation--Removal of Earth Products.

- A. Before a Conditional Use Permit for the commercial excavation and removal of earth products can be granted, plans and specifications showing the location of premises, grading plan, existing and proposed drainage, proposed truck access, and details of regrading and revegetation of the site shall be submitted to, and approved by, the Planning Commission.
- B. Any deviation from the plans as approved will serve as grounds to revoke the Conditional Use Permit.

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- C. In reviewing the application, the Planning Commission may consider the most appropriate use of the land, distances from property lines, the protection of pedestrians and vehicles, the prevention of the collection and stagnation of water at all stages of the operation, and the rehabilitation of the land upon termination of operation.
- D. A bond may be required to ensure performance.
- E. Any expansion of a nonconforming commercial excavation shall require a Conditional Use Permit. An expansion is defined as removal of additional undisturbed topsoil or vegetation or otherwise enlarging the area which had been mined, commonly referred to as the quarry face or active quarry area. (Ord 2290 S2, 1984)

SECTION 18.68.090 Nonconforming Uses and Structures.

- A. A non-conforming use or structure may not be enlarged, extended, reconstructed, substituted, or structurally altered, except as follows:
 - 1. When authorized in accordance with the same procedure as provided in Conditional Use Chapter 18.104 and the criteria of Section 18.104.050(B and C), a nonconforming use may be changed to one of the same or a more restricted nature, except that a Conditional Use Permit need not be obtained when the use is changed to a permitted use within the zoning district.
 - 2. When authorized in accordance with the same procedure as provided in Conditional Use Chapter 18.104 and the criteria of Section 18.104.050(B and C), nonconforming structure may be enlarged, extended, reconstructed or the footprint modified, except that a Conditional Use Permit need not be obtained when the addition or extension meets all requirements of this Title.
 - 3. A non-conforming structure may be restored or rehabilitated if is not changed in size or shape, provided that the use of the structure is not changed except if in conformance with the procedures of Section 18.68.090.A.1 above.
 - 4. Nothing in this section shall be deemed to prevent the normal maintenance and repair of a non-conforming structure or its restoration to a safe condition when declared to be unsafe by any official charged with protecting public safety.
 - 5. A legal nonconforming structure or nonconforming use that is damaged to an extent of 50% or more of its replacement cost may be restored only if the damage was not intentionally caused by the property owner and the nonconformity is not increased. Any residential structure(s), including multiple-family, in a residential zone damaged beyond 50% of its replacement cost by a catastrophe, such as fire that is not intentionally caused by the owner, may be reconstructed at the original density provided the reconstruction is commenced within 2 years after the catastrophe.
- B. Discontinuance. If the nonconforming use of a building structure, or premises ceases for a period of six (6) months or more, said use shall be considered abandoned; and said building, structure, or premises shall thereafter be used only for uses permitted in the district in which it is located. Discontinuance shall not include a period of active reconstruction following a fire or other result of natural hazard; and the Planning Commission may extend the discontinuance period in the event of special unique unforeseen circumstances.
- C. Reactivation. A non-conforming use, which has been abandoned for a period of more than six (6) months may be reactivated to an equivalent or more restricted use through the Conditional Use and Site Review process. In evaluating whether or not to permit the reactivation of a non-conforming use, the Planning Commission, in addition to using the

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criteria required for a Conditional Use Permit and Site Review, shall also use the following additional criteria:

1. That any improvements for the reactivation of the non-conforming use on the site shall be less than fifty (50%) percent of the value of the structure. The value of the structure shall be determined by an independent real estate appraiser licensed in the State of Oregon. The value of the improvement shall be determined based upon copies of the contractor's bid for said improvements, which shall be required with the Conditional Use permit application. Personal property necessary for the operation of the business or site improvements not included in the structure shall not be counted as improvements under this criterion.
 2. An assessment that the traffic generated by the proposed use would not be greater than permitted uses on the site. In assessing the traffic generated by the proposed use, the Planning Commission shall consider the number of vehicle trips per day, the hours of operation, and the types of traffic generated; i.e., truck or passenger vehicle. The Planning Commission shall modify the Conditional Use Permit so that the operation of the non-conforming use is limited to the same traffic impact as permitted uses in the same zone.
 3. That the noise generated by the proposal will be mitigated so that it complies with the Ashland Noise Ordinance, Chapter 9.08.170, and also that it does not exceed the average ambient noise level already existing in the area, as measured by this standard.
 4. That there will be no lighting of the property which would have direct illumination on adjacent uses and that there would be no reflected light from the property greater than the amount of reflected light from any permitted use in that same zone.
 5. In a residential zone the findings must further address that such reactivation will further implement Goal VI, Policy 2, Housing Chapter of the Ashland Comprehensive Plan.
 6. Nothing herein shall apply to non-conforming signs, which are governed by the provisions of Section 18.96.150 of this Code.
- D. Building or structure: Nothing contained in this Title shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction has commenced prior to the adoption of the ordinance codified herein and subsequent amendments thereto, except that if the designated use will be nonconforming, it shall, for the purpose of subsection (B) of this Section, be a discontinued use if not in operation within two (2) years of the date of issuance of the building permit. (Ord 2951, amended, 07/01/2008)

SECTION 18.68.100 Slope; Hillside Protection. Repealed in its entirety, Ord. 2528, 7/5/89.

SECTION 18.68.110 Front Yard - General Exception.

- A. If there are dwellings or accessory buildings on both abutting lots (even if separated by an alley or private way) with front or side yards abutting a public street with less than the required setback for the district, the front yard for the lot need not exceed the average yard of the abutting structures.
- B. If there is a dwelling or accessory building on one (1) abutting lot with a front yard of less than the required depth for the district, the front yard need not exceed a depth one-half ($\frac{1}{2}$) way between the depth of the abutting lot and the required front yard depth.

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- C. The front yard may be reduced to ten (10) feet on hillside lots where the terrain has an average steepness equal to, or exceeding a one (1) foot rise or fall in four (4) feet of horizontal distance within the entire required yard, said vertical rise or fall to be measured from the natural ground level at the property line. (Ord 2951, amended, 07/01/2008)

SECTION 18.68.120 Utilities.

Except as provided in Chapter 18.72 for wireless communication systems, the erection, construction, alteration, or maintenance by public utility or municipal or other government agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police equipment and accessories in connection therewith, but not including buildings or satellite disc antennas, shall be permitted in any district, subject to the normal permit process. Utility transmission and distribution lines, poles and towers may exceed the height limits otherwise provided for in this Title, except in the Airport Overlay District. (Ord 2457 S1, 1988; Ord 3802 S3, 1997)

SECTION 18.68.130 Lot Size Requirements - General Exception.

If a lot or the aggregate of contiguous lots or land parcels held in single ownership and recorded in the office of the County Clerk at the time of passage of the ordinance codified herein, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by a use permitted outright in the district subject to all other requirements, provided it complied with all ordinances when it was recorded.

SECTION 18.68.140 Accessory Buildings, Structures and Mechanical Equipment.

Accessory buildings and structures shall comply with all requirements for the principal use except where specifically modified by this Title and shall comply with the following limitations:

- A. A greenhouse or hothouse may be maintained accessory to a dwelling in an R district.
- B. A guest house may be maintained accessory to a single-family dwelling provided there are no kitchen cooking facilities in the guest house.
- C. Mechanical equipment shall not be located between the main structure on the site and any street adjacent to a front or side yard, and every attempt shall be made to place such equipment so that it is not visible from adjacent public streets. Mechanical equipment and associated enclosures, no taller than allowed fence heights, may be located within required side or rear yards, provided such installation and operation is consistent with other provisions of this Title or the Ashland Municipal Code, including but not limited to noise attenuation. Any installation of mechanical equipment shall require a building permit.
- D. Regardless of the side and rear yard requirements of the district, in a residential district, a side or rear yard may be reduced to three (3) feet for an accessory structure erected more than fifty (50) feet from any street, other than alleys, provided the structure is detached and separated from other buildings and structures by ten (10) feet or more, and is no more than fifteen (15) feet in height. Any conversion of such accessory structure to an accessory

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residential unit shall conform to other requirements of this Title for accessory residential units, including any required planning action and/or site review. (Ord 2951, amended, 07/01/2008)

SECTION 18.68.150 Waiver of Right to Remonstrate and Consent to Participate in Costs of Improvements.

Whenever a request is made for a building permit which involves new construction of a new residential unit and/or any request involving a planning action which would increase traffic flow on any street not fully improved, the applicant is required to legally agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the costs of full street improvements and to not remonstrate to the formation of a local improvement district, to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks, and the undergrounding of utilities. This requirement is a condition precedent to the issuance of a building permit or the granting of approval of a planning action and if the owner declines to so agree, then the building permit and/or planning action shall be denied. This shall not require paving of alleys, and shall not be construed as waiving property owners rights to present their views during a public hearing held by the City Council. (Ord 2589, 1990)

SECTION 18.68.160 Driveway Grades.

Grades for new driveways in all zones shall not exceed a grade of 20% for any portion of the driveway. All driveways shall be designed in accord with City of Ashland standards and installed prior to issuance of a certificate of occupancy for new construction. If required by the City, the developer or owner shall provide certification of driveway grade by a licensed land surveyor. All vision clearance standards associated with driveway entrances onto public streets shall not be subject to the Variance section of this title. (Ord 2951, amended, 07/01/2008)

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CHAPTER 18.70

SOLAR ACCESS

SECTIONS:

18.70.010	Purpose and Intent.
18.70.020	Definitions.
18.70.030	Lot Classifications.
18.70.040	Solar Setbacks.
18.70.050	Solar Access Performance Standard.
18.70.060	Variances.
18.70.070	Solar Access Permit for Protection from Shading by Vegetation.
18.70.080	Hearing Procedure.
18.70.090	Limits On Solar Access Permits.
18.70.100	Entry of Solar Access Permit Into Register.
18.70.110	Effect and Enforcement.

SECTION 18.70.010 Purpose and Intent.

The purpose of the Solar Access Chapter is to provide protection of a reasonable amount of sunlight from shade from structures and vegetation whenever feasible to all parcels in the City to preserve the economic value of solar radiation falling on structures, investments in solar energy systems, and the options for future uses of solar energy.

SECTION 18.70.020 Definitions.

- A. **Exempt Vegetation.** All vegetation over fifteen (15) feet in height at the time a solar access permit is applied for.
- B. **Highest Shade Producing Point.** The point of a structure which casts the longest shadow beyond the northern property boundary at noon on December 21st.
- C. **Natural Grade.** The elevation of the natural ground surface in its natural state, before man-made alterations. The natural ground surface is the ground surface in its original state, before any grading, excavation, or filling.
- D. **Northern Lot Line.** Any lot line or lines less than forty-five (45) degrees southeast or southwest of a line drawn east-west and intersecting the northernmost point of the lot. If the northern lot line adjoins any unbuildable area (e.g., street, alley, public right-of-way, parking lot, or common area) other than a required yard area, the northern lot line shall be that portion of the northerly edge of the unbuildable area which is due north from the actual northern edge of the applicant's property.
- E. **North-South Lot Dimension.** The average distance in feet between lines from the corners of the northern lot line south to a line drawn east-west and intersecting the southernmost point of the lot.
- F. **Solar Energy System.** Any device or combination of devices or elements which rely upon

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direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in the heating or cooling of a structure or building, the heating or pumping of water, or the generation of electricity. A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member of part of the roof of a building or structure and serving as a window or wall.

- G. **Solar Envelope.** A three dimensional surface which covers a lot and shows, at any point, the maximum height of a permitted structure which protects the solar access of the parcel(s) to the north.
- H. **Solar Heating Hours.** The hours and dates during which solar access is protected by a solar access permit, not to exceed those hours and dates when the sun is lower than twenty-four (24) degrees altitude and greater than seventy (70) degrees east and west of true south.
- I. **Solar Access Permit Height Limitations.** The height limitations on affected properties required by the provisions of a Solar Access Permit displayed as a series of five (5) foot contour lines which begin at the bottom edge of the solar energy system protected by the permit, rise at an angle to the south not less than twenty-four (24) degrees from the horizon, and extend at an angle not greater than seventy (70) degrees to the east and west of true south and run parallel to the solar energy system.
- J. **Solar Setback.** The minimum distance that a structure, or any part thereof, can be located from a property boundary.
- K. **Slope.** A vertical change in elevation divided by the horizontal distance of the vertical change. Slope is measured along lines extending one hundred fifty (150) feet north from the end points of a line drawn parallel to the northern lot line through the midpoint of the north-south lot dimension. North facing slopes will have negative (-) values and south facing slopes will have positive (+) values.
- L. **Sunchart.** Photographs or drawings, taken in accordance with the guidelines of the Staff Advisor, which plot the position of the sun during solar heating hours. The sunchart shall contain at a minimum the southern skyline as seen through a grid which plots solar altitude for a forty-two (42) degree northern latitude in ten (10) degree increments and solar azimuth measured from true south in fifteen (15) degree increments. If the solar energy system is less than twenty (20) feet wide, a minimum of one (1) sunchart shall be taken from the bottom edge of the center of the solar energy system. If the solar energy system is greater than twenty (20) feet wide, a minimum of two (2) suncharts shall be taken, one (1) from the bottom edge of each end of the solar energy system.

SECTION 18.70.030 Lot Classifications.

Affected Properties. All lots shall meet the provisions of this Section and will be classified according to the following formulas and table:

FORMULA I:

$$\text{Minimum N/S lot dimension for Formula I} = \frac{30'}{0.445 + S}$$

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Where: S is the decimal value of slope, as defined in this Chapter.

FORMULA II:

$$\text{Minimum N/S lot dimension for Formula II} = \frac{10'}{0.445 + S}$$

Lots whose north-south lot dimension exceeds that calculated by Formula I shall be required to meet the setback in Section (A), below.

Those lots whose north-south lot dimension is less than that calculated by Formula I, but greater than that calculated by Formula II, shall be required to meet the setback in Section (B), below.

Those lots whose north-south lot dimension is less than that calculated by Formula II shall be required to meet the setback in Section (C), below.

TABLE I
Lot Classification Standards

Slope	-.30	-.25	-.20	-.15	-.10	-.05	0.0	.05	.10	.15	.20
STD A	207	154	122	102	87	76	67	61	55	50	46
STD B	69	51	41	34	29	25	22	20	18	17	15

SECTION 18.70.040 Solar Setbacks.

A. **Setback Standard A.** This setback is designed to insure that shadows are no greater than six (6) feet at the north property line. Buildings on lots which are classified as Standard A, and zoned for residential uses, shall be set back from the northern lot line according to the following formula:

$$\text{SSB} = \frac{H - 6'}{0.445 + S}$$

WHERE:

SSB = the minimum distance in feet that the tallest shadow producing point which creates the longest shadow onto the northerly property must be set back from the northern property line.

H = the height in feet of the highest shade producing point of the structure which casts the longest shadow beyond the northern property line.

S = the slope of the lot, as defined in this Chapter.

B. **Setback Standard B.** This setback is designed to insure that shadows are no greater than sixteen (16) feet at the north property line.

Buildings for lots which are classified as Standard B, or for any lot zoned C-1, E-1 or M-1, or for any lot not abutting a residential zone to the north, shall be set back from the northern lot line as set forth in the following formula:

$$\text{SSB} = \frac{H - 16'}{0.445 + S}$$

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- C. **Setback Standard C.** This setback is designed to insure that shadows are no greater than twenty-one (21) feet at the north property line.

Buildings for lots in any zone whose north/south lot dimension is less than Standard B shall meet the setback set forth in the following formula:

$$\frac{SSB = H - 21'}{0.445 + S}$$

- D. **Exempt Lots.** Any lot with a slope of greater than thirty percent (30%) in a northerly direction, as defined by this Ordinance, shall be exempt from the effects of the Solar Setback Section.
- E. **Lots Affected By Solar Envelopes.** All structures on a lot affected by a solar envelope shall comply with the height requirements of the solar envelope.
- F. **Exempt Structures.**
1. Existing Shade Conditions. If an existing structure or topographical feature casts a shadow at the northern lot line at noon on December 21, that is greater than the shadow allowed by the requirements of this Section, a structure on that lot may cast a shadow at noon on December 21, that is not higher or wider at the northern lot line than the shadow cast by the existing structure or topographical feature. This Section does not apply to shade caused by vegetation.
 2. Actual Shadow Height. If the applicant demonstrates that the actual shadow which would be cast by the proposed structure at noon on December 21, is no higher than that allowed for that lot by the provisions of this Section, the structure shall be approved. Refer to Table D for actual shadow lengths.

SECTION 18.70.050 Solar Access Performance Standard.

- A. **Assignment of Solar Factor.** All land divisions which create new lots shall be designed to permit the location of a twenty-one (21) foot high structure with a setback which does not exceed fifty (50%) percent of the lot's north-south lot dimension. Lots having north facing (negative) slopes of less than fifteen percent (15%) (e.g., 10%), and which are zoned for residential uses, shall have a north-south lot dimension equal to or greater than that calculated by using Formula I. Lots having north facing (negative) slopes equal to or greater than fifteen percent (15%) (e.g., 20%), or are zoned for non-residential uses, shall have a north-south lot dimension equal to or greater than that calculated by using Formula II.
- B. **Solar Envelope.** If the applicant chooses not to design a lot so that it meets the standards set forth in (A) above, a Solar Envelope shall be used to define the height requirements which will protect the applicable Solar Access Standard. The Solar Envelope, and written description of its effects, shall be filed with the land partition or subdivision plat for the lot(s).

SECTION 18.70.060 Variances.

- A. Variances to this Chapter shall be processed as a Type I procedure, except that variances granted under subsection B of this Section may be processed as a Staff Permit.

(Ord. 2484 S3, 1988)

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- B. A variance may be granted with the following findings being the sole facts considered by the Staff Advisor:
1. That the owner or owners of all property to be shaded, sign and record with the County Clerk on the affected properties' deed, a release form supplied by the City, which contains the following information:
 - a. The signatures of all owners or registered leaseholders who hold an interest in the property in question.
 - b. A statement that the waiver applies only to the specific building or buildings to which the waiver is granted.
 - c. A statement that the solar access guaranteed by this Section is waived for that particular structure and the City is held harmless for any damages resulting from the waiver.
 - d. A description and drawing of the shading which would occur, and
 2. The Staff Advisor finds that:
 - a. The variance does not preclude the reasonable use of solar energy on the site by future buildings; and
 - b. The variance does not diminish any substantial solar access which benefits a habitable structure on an adjacent lot.
 - c. There are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.

SECTION 18.70.070 Solar Access Permit for Protection from Shading by Vegetation.

- A. A Solar Access Permit is applicable in the City of Ashland for protection of shading by vegetation only. Shading by buildings is protected by the setback provisions of this Ordinance.
- B. Any property owner or lessee, or agent of either, may apply for a Solar Access Permit from the Staff Advisor. The application shall be in such form as the Staff Advisor may prescribe but shall, at a minimum, include the following:
1. A fee of Fifty (\$50.00) Dollars plus Ten (\$10.00) Dollars for each lot affected by the Solar Access Permit.
 2. The applicant's name and address, the owner's name and address, and the tax lot number of the property where the proposed solar energy system is to be located.
 3. A statement by the applicant that the solar energy system is already installed or that it will be installed on the property within one (1) year following the granting of the permit.
 4. The proposed site and location of the solar energy system, its orientation with respect to true south, and its slope from the horizontal shown clearly in drawing form.
 5. A sun chart.
 6. The tax lot numbers of a maximum of ten (10) adjacent properties proposed to be subject to the Solar Access Permit. A parcel map of the owner's property showing such adjacent properties with the location of existing buildings and vegetation, with all exempt vegetation labeled exempt.
 7. The Solar Access Permit height limitations as defined in Section 18.70.050 of this Ordinance, for each affected property which are necessary to protect the solar energy system from shade during solar heating hours. In no case shall the height limitations of the Solar Access Permit be more restrictive than the building setbacks.
- C. If the application is complete and complies with this Ordinance, the Staff Advisor shall accept the solar access recordation application and notify the applicant. The applicant is

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responsible for the accuracy of all information provided in the application.

- D. The Staff Advisor shall send notice by certified letter, return receipt requested, to each owner and registered lessee of property proposed to be subject to the Solar Access Permit. The letter shall contain, at a minimum, the following information:
1. The name and address of the applicant.
 2. A statement that an application for a Solar Access Permit has been filed.
 3. Copies of the collector location drawing, sunchart, and parcel map submitted by the applicant.
 4. A statement that the Solar Access Permit, if granted, imposes on them duties to trim vegetation at their expense.
 5. The advisability of obtaining photographic proof of the existence of trees and large shrubs.
 6. The times and places where the application may be viewed.
 7. Telephone number and address of the City departments that will provide further information.
 8. That any adversely affected person may object to the issuance of the permit by a stated time and date, and how and where the objection must be made.
- E. If no objections are filed within thirty (30) days following the date the final certified letter is mailed, the Staff Advisor shall issue the Solar Access Permit.
- F. If any adversely affected person or governmental unit files a written objection with the Staff Advisor within the specified time, and if the objections still exist after informal discussions among the objector, appropriate City Staff, and the applicant, a hearing date shall be set and a hearing held in accordance with the provisions of Section 18.70.080.

SECTION 18.70.080 Hearing Procedure.

- A. The Staff Advisor shall send notice of the hearing on the permit application to the applicant and to all persons originally notified of the Solar Access Permit application, and shall otherwise follow the procedures for a Type I hearing.
- B. The Staff Advisor shall consider the matters required for applications set forth in Section 18.70.070(B) on which the applicant shall bear the burden of proof, and the following factor on which the objector shall bear the burden of proof: A showing by the objector that the proposed collector would unreasonably restrict the planting of vegetation on presently under-developed property.
1. If the objector is unable to prove these circumstances and the applicant makes the showings required by Section 18.70.060(B), the Staff Advisor shall approve the permit.
 2. If the applicant has failed to show all structures or vegetation shading of the proposed collector location in his application, the Staff Advisor may approve the permit while adding the omitted shading structures or vegetation as exemptions from this Chapter.
 3. If the objector shows that an unconditional approval of the application would unreasonably restrict development of the objector's presently under-developed property, the Staff Advisor may approve the permit, adding such exemptions as are necessary to allow for reasonable development of the objector's property.
 4. If the Staff Advisor finds that the application contains inaccurate information which substantially affects the enforcement of the Solar Access Permit, the application shall be denied.

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- C. Any decision by the Staff Advisor is subject to review before the Planning Commission as a Type II planning action according to the usual procedures contained in this Title.
(Ord. 2775, 1996)

SECTION 18.70.090 Limits On Solar Access Permits.

- A. No Solar Access Permit may be filed which would restrict any lot which has an average slope of fifteen (15) percent in the northerly direction.
- B. A Solar Access Permit becomes void if the use of the solar collector is discontinued for more than twelve (12) consecutive months or if the solar collector is not installed and operative within twelve (12) months of the filing date of the Solar Access Permit. The applicant may reapply for a Solar Access Permit in accordance with Chapter 18.70.070, however, the application fee shall be waived.

SECTION 18.70.100 Entry of Solar Access Permit Into Register.

- A. When a Solar Access Permit is granted, the Staff Advisor shall:
1. File the Solar Access Permit with the County Clerk. This shall include the owner's name and address and tax lot of the property where the recorded collector is to be located, any special exceptions or exemptions from the usual affects of a Solar Access Permit, and the tax lots of the ten (10) or fewer adjacent properties subject to the Solar Access Permit.
 2. File a notice on each affected tax lot that the Solar Access Permit exists and that it may affect the ability of the property owner to grow vegetation, and that it imposes certain obligations on the property owner to trim vegetation.
 3. Send a certified letter, return receipt requested, to the applicant and to each owner and registered lessee of property subject to the Solar Access Permit stating that such permit has been granted.
- B. If a Solar Access Permit becomes void under Section 18.70.090(B), the Staff Advisor shall notify the County Clerk, the recorded owner, and the current owner and lessee of property formerly subject to the Solar Access Permit.

SECTION 18.70.110 Effect and Enforcement.

- A. No City department shall issue any development permit purporting to allow the erection of any structure in violation of the setback provisions of this Chapter.
- B. No one shall plant any vegetation that shades a recorded collector, or a recorded collector location if it is not yet installed, after receiving notice of a pending Solar Access Permit application or after issuance of a permit. After receiving notice of a Solar Access Permit or application, no one shall permit any vegetation on their property to grow in such a manner as to shade a recorded collector (or a recorded collector location if it is not yet installed) unless the vegetation is specifically exempted by the permit or by this Ordinance.
- C. If vegetation is not trimmed as required or is permitted to grow contrary to Section 18.70.100(B), the recorded owner or the City, on complaint by the recorded owner, shall give notice of the shading by certified mail, return receipt requested, to the owner or

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registered lessee of the property where the shading vegetation is located. If the property owner or lessee fails to remove the shading vegetation within thirty (30) days after receiving this notice, an injunction may be issued, upon complaint of the recorded owner, recorded lessee, or the City, by any court of jurisdiction. The injunction may order the recorded owner or registered lessee to trim the vegetation, and the court shall order the violating recorded owner or registered lessee to pay any damages to the complainant, to pay court costs, and to pay the complainant reasonable attorney's fees incurred during trial and/or appeal.

- D. If personal jurisdiction cannot be obtained over either the offending property owner or registered lessee, the City may have a notice listing the property by owner, address and legal description published once a week for four (4) consecutive weeks in a newspaper of general circulation within the City, giving notice that vegetation located on the property is in violation of this Ordinance and is subject to mandatory trimming. The City shall then have the power, pursuant to court order, to enter the property, trim or cause to have trimmed the shading parts of the vegetation, and add the costs of the trimming, court costs and other related costs as a lien against that property.
- E. In addition to the above remedies, the shading vegetation is declared to be a public nuisance and may be abated through Title 9 of the Ashland Municipal Code.
- F. Where the property owner or registered lessee contends that particular vegetation is exempt from trimming requirements, the burden of proof shall be on the property owner or lessee to show that an exemption applies to the particular vegetation.

Ashland Setback Table
Setback Standard "A"

Height in feet	Slope									
	-0.30	-0.25	-0.20	-0.15	-0.10	-0.05	-0.00	0.05	0.10	0.15
8 *	14	10	8	7	6	5	4	4	4	3
10 *	28	20	6	4	2	0	9	8	7	7
12 *	41	31	24	20	17	15	13	21	11	10
14 *	55	41	33	27	23	20	18	16	15	13
16 *	69	51	41	34	29	25	22	20	18	17
18 *	83	61	49	41	35	30	27	24	22	20
20 *	96	72	57	47	41	35	31	28	26	24
22 *	110	82	65	54	46	40	36	32	29	27
24 *	124	92	73	61	52	46	40	36	33	30
26 *	138	102	82	68	58	51	45	40	37	34
28 *	151	113	90	75	64	56	49	44	40	37
30 *	165	123	98	81	70	61	54	48	44	40
32 *	179	133	106	88	75	66	58	53	48	44
34 *	193	143	114	95	81	71	63	57	51	47
36 *	207	154	122	102	87	76	67	61	55	50
38 *	220	164	130	108	93	81	72	65	59	54
40 *	234	174	139	115	98	86	76	69	62	57

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Ashland Setback Table
Setback Standard "B"

Height in feet	Slope									
	0.30	-0.25	-0.20	-0.15	-0.10	-0.05	0.00	0.05	0.10	0.15
8 *	0	0	0	0	0	0	0	0	0	0
10 *	0	0	0	0	0	0	0	0	0	0
12 *	0	0	0	0	0	0	0	0	0	0
14 *	0	0	0	0	0	0	0	0	0	0
16 *	0	0	0	0	0	0	0	0	0	0
18 *	14	10	8	7	8	5	4	4	4	3
20 *	28	20	16	14	12	10	9	8	7	7
22 *	41	31	24	20	17	15	13	12	11	10
24 *	55	41	33	27	23	20	18	16	15	13
26 *	69	51	54	34	29	25	22	20	18	17
28 *	83	61	49	41	35	30	27	24	22	20
30 *	96	72	57	47	41	35	31	28	26	24
32 *	110	82	65	54	46	40	36	35	29	27
34 *	124	92	73	61	52	46	40	36	33	30
36 *	138	102	82	68	58	51	45	40	37	34
38 *	151	113	90	75	64	56	49	44	40	37
40 *	165	123	98	81	70	61	54	48	44	40

Ashland Setback Table
Setback Standard "C"

Height in feet	Slope									
	0.30	-0.25	-0.20	-0.15	-0.10	-0.05	0.00	0.05	0.10	0.15
8 *	0	0	0	0	0	0	0	0	0	0
10 *	0	0	0	0	0	0	0	0	0	0
12 *	0	0	0	0	0	0	0	0	0	0
14 *	0	0	0	0	0	0	0	0	0	0
16 *	0	0	0	0	0	0	0	0	0	0
18 *	0	0	0	0	0	0	0	0	0	0
20 *	0	0	0	0	0	0	0	0	0	0
22 *	7	5	4	3	3	3	2	2	2	2
24 *	21	15	12	10	9	8	7	6	6	6
26 *	34	26	20	17	14	13	11	10	9	8
28 *	48	36	29	24	20	18	16	14	13	12
30 *	62	46	37	30	26	23	20	18	17	15
32 *	76	56	45	37	32	28	25	22	20	18
34 *	90	67	53	44	38	33	29	26	24	22
36 *	103	77	61	51	43	38	34	30	28	25
38 *	117	87	69	58	49	43	38	34	31	29
40 *	131	97	77	64	55	48	43	38	35	32

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Ashland Setback Table "D"
Actual Shadow Length (at solar noon on December 21st)

Height in feet	Slope									
	0.30	-0.25	-0.20	-0.15	-0.10	-0.05	0.00	0.05	0.10	0.15
8 *	55	41	33	27	23	20	18	16	15	13
10 *	69	51	41	34	29	25	22	20	18	17
12 *	83	61	49	41	35	30	27	24	22	20
14 *	96	72	57	47	41	35	31	28	26	24
16 *	110	82	65	54	46	40	36	32	29	27
18 *	124	92	73	61	52	46	40	36	33	30
20 *	138	102	82	68	58	51	45	40	37	34
22 *	151	113	90	75	64	56	49	44	40	37
24 *	165	123	98	81	70	61	54	48	44	40
26 *	179	133	106	88	75	66	58	53	48	44
28 *	193	143	114	95	81	71	63	57	51	47
30 *	207	154	122	102	87	76	67	61	55	50
32 *	220	164	130	108	93	81	72	65	59	54
34 *	234	174	139	115	98	86	76	69	62	57
36 *	248	184	147	122	104	91	81	73	66	60
38 *	262	195	155	129	110	96	85	77	70	64
40 *	275	205	163	135	116	101	90	81	73	67

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CHAPTER 18.72

SITE DESIGN REVIEW

SECTIONS:

18.72.010	Purpose and Intent.
18.72.020	Definitions.
18.72.030	Applicability.
18.72.040	Approval Process.
18.72.050	Detail Site Review Zone.
18.72.055	Downtown Design Standards Zone.
18.72.060	Plans Required.
18.72.070	Criteria for Approval.
18.72.080	Site Design Standards.
18.72.090	Exception to the Site Design and Use Standards.
18.72.100	Power to Amend Plans.
18.72.105	Expiration of Site Design Review Approval.
18.72.110	Landscaping Standards.
18.72.115	Recycling Requirements.
18.72.120	Controlled Access (Repealed by Ord 3054, 12/16/11)
18.72.140	Light and Glare Performance Standards.
18.72.150	Review by Conservation Coordinator.
18.72.160	Landscaping Maintenance.
18.72.170	Development Standards for Disc Antennas.
18.72.180	Development Standards for Wireless Communication Facilities.

SECTION 18.72.010 Purpose and Intent.

The purpose and intent of this Chapter is to regulate the manner in which land in the City is used and developed, to reduce adverse effects on surrounding property owners and the general public, to create a business environment that is safe and comfortable, to further energy conservation efforts within the City, to enhance the environment for walking, cycling, and mass transit use, and ensure that high quality development is maintained throughout the City.

SECTION 18.72.020 Definitions.

The following terms are hereby defined as they apply to this chapter:

- A. **Accessory Equipment** - All appurtenances defined in wireless communication facilities, with the exception of the support structure and antennas.

- B. **Antenna** - The device used to capture an incoming or to transmit an outgoing radio-frequency signal from wireless communication systems. Antennas include the following types:
 - 1. Omni-direction (whip) antenna - receives and transmits signals in a 360 degree pattern
 - 2. Directional or Parabolic (panel or disk) Antenna - receives and transmits signals in a directional pattern. They are typically rectangular in shape.
 - 3. Microwave antennas - receives and transmits to link two telecommunication facilities together by line of sight. They are typically circular or parabolic in shape and can be a

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grid or solid material.

- C. **Collocation** - The use of a single wireless communication facility by more than one wireless communications provider.
- D. **Floor-Area Ratio (FAR)** - The gross floor area of all buildings on a lot divided by the lot area.
- E. **Infill** - The development of more intensive land uses upon vacant or under-utilized sites.
- F. **Pre-existing structures** - Structures in existence prior to an application for a wireless communication facility installation.
- G. **Primary Orientation** - Direction of the front of the building with the main entrance to the public.
- H. **Wireless Communication Facilities** - The site, structures, equipment and appurtenances used to transmit, receive, distribute, provide or offer wireless telecommunications services. This includes, but is not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment.
- I. **Wireless Communications Systems** - The sending and receiving of radio frequency transmissions and the connection or relaying of these signals to land lines and other sending and receiving stations, and including, but not limited to cellular radiotelephone, personal communications services (PCS), enhanced/specialized mobile radio, and commercial paging services, and any other technology which provides similar services.
- J. **Wireless Communications Support Structure** - A structure used to support wireless communications antennas and connecting appurtenances. The purpose of such structures is to elevate an antenna above the surrounding terrain or structures and may be attached to an existing building or other permanent structures or as a free-standing structure which may include, but are not limited to monopole support structures and lattice support structures, and may have supporting guyed wires and ground anchors.
 - 1. Monopole - A support structure which consists of a single pole sunk into the ground or attached to a foundation.
 - 2. Lattice Tower - A support structure which consists of a network of cross braces that forms a tower. These types of structures are primarily used for taller towers and require a larger base than that of a monopole.
 - 3. Alternative Structure - Man-made structures that, by design, camouflage or conceal the presence of wireless communication facilities, such as clock towers, bell towers, church steeples, water towers, light poles and similar alternative-design mounting structures.

(Ord 2802, S1 1997)

SECTION 18.72.030 Applicability.

Site design standards shall apply to all zones of the city as outlined below.

- A. Applicability. The following development is subject to Site Design Review:
 - 1. Commercial, Industrial, Non-Residential and Mixed uses:
 - a. All new structures, additions or expansions in C-1, E-1, HC, CM and M-1 zones.
 - b. All new non-residential structures or additions (e.g. public buildings, schools,

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- churches, etc.).
- c. Mixed-use structures or developments containing commercial and residential uses in residential zoning districts within the Pedestrian Places Overlay.
 - d. Expansion of impervious surface area in excess of 10% of the area of the site or 1,000 square feet, whichever is less.
 - e. Expansion of parking lots, relocation of parking spaces on a site, or other changes which alters or affects circulation on adjacent property or a public right-of-way.
 - f. Any change of occupancy from a less intensive to a more intensive occupancy, as defined in the City building code, or any change in use which requires a greater number of parking spaces.
 - g. Any change in use of a lot from one general use category to another general use category, e.g., from residential to commercial, as defined by the zoning regulations of this Code.
 - h. Any exterior change to a structure which is listed on the National Register of Historic Places or to a contributing property within an Historic District on the National Register of Historic Places that requires a building permit, or includes the installation of Public Art.
 - i. Mechanical equipment not otherwise exempt from site design review per Section 18.72.030(B).
 - j. Installation of wireless communication facilities in accordance with Section 18.72.180.
2. Residential uses:
- a. Two or more residential units on a single lot.
 - b. Construction of attached single-family housing (e.g. town homes, condominiums, row houses, etc.) in all zoning districts.
 - c. Residential development when off-street parking or landscaping, in conjunction with an approved Performance Standards Subdivision required by ordinance and not located within the boundaries of the individual unit parcel (e.g. shared parking).
 - d. Any exterior change to a structure individually listed on the National Register of Historic Places that requires a building permit, or includes the installation of Public Art.
 - e. Mechanical equipment not otherwise exempt from site design review per Section 18.72.030(B).
 - f. Installation of wireless communication facilities in accordance with Section 18.72.180.

(Ord 2984, amended, 05/19/2009; Ord 2951, amended, 07/01/2008; Ord 3036, amended, 08/17/2010, Ord 3054, amended 12/16/2011)

- B. Exemptions. The following development is exempt from Site Design Review application and procedure requirements provided that the development complies with applicable standards as set forth by this Chapter.
- 1. Detached single family dwellings and associated accessory structures and uses.
 - 2. Land divisions regulated by the following chapters: Partitioning (18.76), Subdivisions (18.80), Manufactured Housing (18.84) and Performance Standards (18.88).
 - 3. The following mechanical equipment:
 - a. Private, non-commercial radio and television antennas not exceeding a height of seventy (70) feet above grade or thirty (30) feet above an existing structure, whichever height is greater and provided no part of such antenna shall be within the yards required by this Title. A building permit shall be required for any antenna mast, or tower over fifty (50) feet above grade or thirty (30) feet above an existing structure when the same is constructed on the roof of the structure.

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- b. Not more than three (3) parabolic disc antennas, each under one (1) meter in diameter, on any one lot or dwelling unit.
- c. Roof-mounted solar collection devices in all zoning districts, with the exception of Employment and Commercial zoned properties located within designated historic districts. The devices shall comply with solar setback standards described in 18.70 and height requirements of the respective zoning district.
- d. Installation of mechanical equipment not exempted by (a, b, c) above or (e) below, and which is not visible from a public right-of-way or adjacent residentially zoned property and consistent with other provisions of this Title, including solar access, noise, and setback requirements of Section 18.68.140(c).
- e. Routine maintenance and replacement of existing mechanical equipment in all zones. (Ord 2951, amended, 07/01/2008)

SECTION 18.72.040 Approval Process.

Development subject to site design review shall be reviewed in accordance with the procedures set forth in Chapter 18.108. (Ord 2951, amended, 07/01/2008)

SECTION 18.72.050 Detail Site Review Zone.

- A. The Detail Site Review Zone is that area defined in the Site Design Standards adopted pursuant to Section 18.72.080.
- B. Any development in the Detail Site Review Zone as defined in the Site Review Standards adopted pursuant to this chapter, which exceeds 10,000 square feet or is longer than 100 feet in length or width, shall be reviewed according to the Type 2 procedure.
- C. Outside the Downtown Design Standards Zone, new buildings or expansions of existing buildings in the Detail Site Review Zone shall conform to the following standards:
 - 1. Buildings sharing a common wall or having walls touching at or above grade shall be considered as one building.
 - 2. Buildings shall not exceed a building footprint area of 45,000 square feet as measured outside the exterior walls and including all interior courtyards. For the purpose of this section an interior courtyard means a space bounded on three or more sides by walls but not a roof.
 - 3. Buildings shall not exceed a gross floor area of 45,000 square feet, including all interior floor space, roof top parking, and outdoor retail and storage areas, with the following exception:
Automobile parking areas located within the building footprint and in the basement shall not count toward the total gross floor area.
 - 4. Buildings shall not exceed a combined contiguous building length of 300 feet.
Inside the Downtown Design Standards Zone, new buildings or expansions of existing buildings shall not exceed a building footprint area of 45,000 sq. ft. or a gross floor area of 45,000 sq. ft., including roof top parking, with the following exception:
Automobile parking areas located within the building footprint and in the basement shall not count toward the total gross floor area.

(Ord 2951, amended, 07/01/2008; Ord 2900, amended, 09/16/2003)

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SECTION 18.72.055 Downtown Design Standards Zone.

- A. The Downtown Design Standards Zone is that area defined in the Site Design and Use Standards Section VI, adopted pursuant to Section 18.72.080.
- B. Development in the Downtown Design Standards Zone shall be subject to the Downtown Design Standards. (Ord 2825 S2, 1998)

SECTION 18.72.060 Plans Required.

The following submittals shall be required in order to determine the project's compliance with this Chapter:

A site plan containing the following:

- A. Project name.
- B. Vicinity map.
- C. Scale (the scale shall be at least one (1) inch equals fifty (50) feet or larger.) The Staff Advisor may authorize different scales and plan sheet sizes for projects, provided the plans provide sufficient information to clearly identify and evaluate the application request.
- D. North arrow.
- E. Date.
- F. Street names and locations of all existing and proposed streets within or on the boundary of the proposed development.
- G. Lot layout with dimensions for all lot lines.
- H. Zoning designations of the proposed development.
- I. Zoning designations adjacent to the proposed development.
- J. Location and use of all proposed and existing buildings, fences and structures within the proposed development. Indicate which buildings are to remain and which are to be removed.
- K. Location and size of all public utilities in and adjacent to the proposed development with the locations shown of:
 - 1. Water lines and meter sizes.
 - 2. Sewers, manholes and cleanouts.
 - 3. Storm drainage and catch basins.
 - 4. Opportunity-to-recycle site and solid waste receptacle, including proposed screening.
- L. The proposed location of:
 - 1. Connection to the City water system.
 - 2. Connection to the City sewer system.
 - 3. Connection to the City electric utility system.
 - 4. The proposed method of drainage of the site.
- M. Location of drainage ways or public utility easements in and adjacent to the proposed development.
- N. Location, size and use of all contemplated and existing public areas within the proposed development.
- O. All fire hydrants proposed to be located near the site and all fire hydrants proposed to be located within the site.
- P. A topographic map of the site at a contour interval of at least five (5) feet.
- Q. Location of all parking areas and all parking spaces, ingress and egress on the site, and on-site circulation.
- R. Use designations for all areas not covered by building.

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- S. Locations of all existing natural features including, but not limited to, any existing trees of a caliber greater than six inches diameter at breast height, except in forested areas, and any natural drainage ways or creeks existing on the site, and any outcroppings of rocks, boulders, etc. Indicate any contemplated modifications to a natural feature.
- T. A landscape plan showing the location, type and variety, size and any other pertinent features of the proposed landscaping and plantings. At time of installation, such plans shall include a layout of irrigation facilities and ensure the plantings will continue to grow.
- U. The elevations and locations of all proposed signs for the development.
- V. For non-residential developments proposed on properties located in a Historic District, an exterior wall section, window section and drawings of architectural details (e.g. column width, cornice and base detail, relief and projection, etc.) drawn to a scale of three-fourths (3/4) of an inch equals one (1) foot or larger.
- W. Exterior elevations of all buildings to be proposed on the site. Such plans shall indicate the material, color, texture, shape and other design features of the building, including all mechanical devices. Elevations shall be submitted drawn to scale of one inch equals ten feet or greater.
- X. A written summary showing the following:
 - 1. For commercial and industrial developments:
 - a. The square footage contained in the area proposed to be developed.
 - b. The percentage of the lot covered by structures.
 - c. The percentage of the lot covered by other impervious surfaces.
 - d. The total number of parking spaces.
 - e. The total square footage of all landscaped areas.
 - 2. For residential developments:
 - a. The total square footage in the development.
 - b. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, e.g., ten one-bedroom, 25 two-bedroom, etc).
 - c. Percentage of lot coverage by:
 - i. Structures.
 - ii. Streets and roads.
 - iii. Recreation areas.
 - iv. Landscaping.
 - v. Parking areas.
 - 3. For all developments, the following shall also be required: The method and type of energy proposed to be used for heating, cooling and lighting of the building, and the approximate annual amount of energy used per each source and the methods used to make the approximation. (Ord 2951, amended, 07/01/2008)

SECTION 18.72.070 Criteria for Approval.

The following criteria shall be used to approve or deny an application:

- A. All applicable City ordinances have been met or will be met by the proposed development.
- B. All requirements of the Site Review Chapter have been met or will be met.
- C. The development complies with the Site Design Standards adopted by the City Council for implementation of this Chapter.
- D. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property. All improvements in the street right-of-way

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shall comply with the Street Standards in Chapter 18.88, Performance Standards Options.
(Ord. 2655, 1991; Ord 2836 S6, 1999)

SECTION 18.72.080 Site Design Standards.

- A. The Council may adopt standards by ordinance for site design and use. These standards may contain:
1. Additional approval criteria for developments affected by this Chapter.
 2. Information and recommendations regarding project and unit design and layout, landscaping, energy use and conservation, and other considerations regarding the site design.
 3. Interpretations of the intent and purpose of this Chapter applied to specific examples.
 4. Other information or educational materials the Council deems advisable.
- B. Before the Council may adopt or amend the standards, a public hearing must be held by the Planning Commission and a recommendation and summary of the hearing forwarded to the Council for its consideration.
- C. The Site Design and Use Standards adopted by Ordinance No's. 2690, 2800, 2825, 2900, 3031, and 3053 shall be applied as follows:
1. The Multi-family Residential Development Standards in Section II.B shall be applied to the construction of attached single-family housing (e.g. town homes, condominiums, row houses, etc.).
 2. The Commercial, Employment, and Industrial Development standards in Section II.C. shall be applied to non-residential development (e.g. public buildings, schools, etc.)
(Ord 2951, amended, 07/01/2008, Ord 3054, amended 12/16/2011)

SECTION 18.72.090 Exception to the Site Design and Use Standards.

An exception to the requirements of this chapter may be granted with respect to the requirements of the Site Design Standards adopted under section 18.72.080 if, on the basis of the application, investigation and evidence submitted, all of the following circumstances are found to exist:

- A. There is a demonstrable difficulty in meeting the specific requirements of the Site Design and Use Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Design and Use Standards; and the exception requested is the minimum which would alleviate the difficulty; or
- B. There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Design and Use Standards.

(Ord 3054, amended 12/16/2011)

SECTION 18.72.100 Power to Amend Plans.

When approving an application the Planning Commission or the Staff Advisor may include any or all of the following conditions if they find it necessary to meet the intent and purpose and the criteria for approval:

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- A. Require the value of the landscaping to be above two percent, but not greater than five percent of the total project costs as determined from the building permit valuation.
- B. Require such modifications in the landscaping plan as will ensure proper screening and aesthetic appearance.
- C. Require plantings and ground cover to be predominant, not accessory, to other inorganic or dead organic ground cover.
- D. Require the retention of existing trees, rocks, water ponds or courses and other natural features.
- E. Require the retention and restoration of existing historically significant structures on the project site.
- F. Require the City Engineer's approval of a grading plan or drainage plan for a collection and transmission of drainage.
- G. Require the modification or revision of the design or remodeling of structures, signs, accessory buildings, etc., to be consistent with the Site Design Standards.
- H. Require the modification of the placement of any new structures, new accessory uses, parking and landscaping on the project site to buffer adjacent uses from the possible detrimental effects of the propose development.
- I. Restrict heights of new buildings or additions over 35 feet and increase setbacks up to 20 feet.
- J. Require on-site fire hydrants with protective barricades.
- K. Require the type and placement or shielding of lights for outdoor circulation and parking.
- L. Require new developments to provide limited controlled access onto a major street by means of traffic signals, traffic controls and turning islands, landscaping, or any other means necessary to insure the viability, safety and integrity of the major street as a through corridor.
- M. Require pedestrian access, separate pedestrian paths, sidewalks and protection from weather in new developments.
- N. Require developments to provide access to improved City streets and, where possible, provide access to the lower order street rather than a major collector or arterial street.

(Ord 2425 S2, 1987)

SECTION 18.72.105 Expiration of Site Design Review Approval.

Site design review approval granted under this Chapter shall expire if no building permit or public improvement plan for the project has been approved by the City within twelve (12) months of site design review approval. (Ord 2951, added, 07/01/2008)

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SECTION 18.72.110 Landscaping Standards.

A. **Area Required.** The following areas shall be required to be landscaped in the following zones:

R-1	-	45% of total developed lot area
R-2	-	35% of total developed lot area
R-3	-	25% of total developed lot area
C-1	-	15% of total developed lot area
C-1-D	-	None, except parking areas and service stations shall meet the landscaping and screening standards in Section II.D. of the Site Design and Use Standards.
E-1	-	15% of total developed lot area
M-1	-	10% of total developed lot area
CM-NC	-	15% of total developed lot area
CM-OE	-	15% of total developed lot area
CM-CI	-	10% of total developed lot area
CM-MU	-	15% of total developed lot area

(Ord 2825 S3, 1998; Ord 3036, amended, 08/17/2010)

B. **Location.** Landscaping shall be located so that it is visible from public right-of-way or provide buffering from adjacent uses. Landscaping shall be distributed in those areas where it provides for visual and acoustical buffering, open space uses, shading and wind buffering, and aesthetic qualities.

C. **Irrigation.** All landscaping plans shall either be irrigated or shall be certified that they can be maintained and survive without artificial irrigation. If the plantings fail to survive, the property owner shall replace them.

D. **Parking Lots.** Seven percent of all the parking lot area shall be landscaped. Such landscaping shall consist of the proper mixture of deciduous trees and shrubs so that all of the landscaped areas shall be covered within five years by a spreading evergreen ground cover or by shrubs and shaded by the trees.

E. One street tree per 30 feet of frontage shall be required on all projects.

SECTION 18.72.115 Recycling Requirements.

All commercial and multi-family developments, requiring a site review as indicated in 18.72.040, shall provide an opportunity-to-recycle site for use of the project occupants.

A. **Commercial.** Commercial developments having a solid waste receptacle shall provide a site of equal or greater size adjacent to or with access comparable to the solid waste receptacle to accommodate materials collected by the local solid waste franchisee under its on-route collection program for purposes of recycling. Both the opportunity-to-recycle site and the common solid waste receptacle shall be screened by fencing or landscaping such as to limit the view from adjacent properties or public rights-of-way.

B. **Multi-Family Residential.** All newly constructed multi-family units, either as part of an existing development or as a new development, shall provide an opportunity-to-recycle site in accord with the following standards:

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1. Multi-family developments **NOT** sharing a common solid waste receptacle shall provide an individual curbside recycling container for each dwelling unit in the development.
2. Multi-family developments sharing a common solid waste receptacle shall provide a site of equal or greater size adjacent to or with access comparable to the common solid waste receptacle to accommodate materials collected by the local solid waste franchisee under its residential on-route collection program for purposes of recycling. Both the opportunity-to-recycle site and the common solid waste receptacle shall be screened by fencing or landscaping such as to limit the view from adjacent properties or public rights-of-way.

SECTION 18.72.140 Light and Glare Performance Standards.

There shall be no direct illumination of any residential zone from a lighting standard in any other residential lot, C-1, E-1 or M-1, SO, CM or HC lot. (Ord 3034, amended, 08/17/10)

SECTION 18.72.150 Review by Conservation Coordinator.

- A. Upon receiving an application for a Site Review, the Staff Advisor shall refer the application to the Conservation Coordinator for comment.
- B. Prior to final approval of a site plan, the Conservation Coordinator shall file an oral or written report to be entered into the record of the proceedings consisting of:
 1. An assessment of the energy use estimates by the applicant.
 2. An assessment of the applicant's energy use strategies.
 3. Recommendations to the applicant of cost-effective methods to further reduce energy consumption, if any exist. (Ord 2689, 1992)

SECTION 18.72.160 Landscaping Maintenance.

- A. All landscaped areas must be maintained in a weed-free condition.
- B. All landscaped areas required by this Chapter must be maintained according to the approved landscaping plans. (Ord. 2228, 1982)

SECTION 18.72.170 Development Standards for Disc Antennas.

- A. **Building Permit Required.** All disc antennas shall be subject to review and approval of the building official where required by the Building Code.
- B. **Development Standards.** All disc antennas shall be located, designed, constructed, treated and maintained in accordance with the following standards:
 1. Antennas shall be installed and maintained in compliance with the requirements of the Building Code.
 2. Disc antennas exceeding one (1) meter in diameter shall not be permitted on the roof, except where there is no other location on the lot which provides access to receiving or transmitting signals. In no case shall any part of any antenna be located more than ten feet above the apex of the roof surface. Antennas mounted on the roof shall be located in the least visible location as viewed from adjacent right-of-ways, and residential structures in residential zones.
 3. No more than one disc antenna shall be permitted on each tract of land.

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4. Ground mounted disc antennas shall be erected or maintained to the rear of the main building, except in those instances when the subject property is cul-de-sac or corner lot where the side yard is larger than the rear yard, in which case the antenna may be located in the side yard. Antennas shall not be located in any required setback area. No portion of an antenna array shall extend beyond the property lines or into any front yard area. Guy wires shall not be anchored within any front yard area but may be attached to the building.
5. Antennas may be ground-mounted, free standing, or supported by guy wires, buildings, or other structures in compliance with the manufacturer's structural specifications. Ground-mounted antennas shall be any antenna with its base mounted directly in the ground, even if such antenna is supported or attached to the wall of a building.
6. The antenna, including guy wires, supporting structures and accessory equipment, shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. Antennas shall be screened through the addition of architectural features and/or landscaping that harmonize with the elements and characteristics of the property. The materials used in constructing the antenna shall not be unnecessarily bright, shiny, garish, or reflective. Whenever possible, disc antennas shall be constructed out of mesh material and painted a color that will blend with the background.
7. Antennas shall meet all manufacturer's specifications. The mast or tower shall be non-combustible. Corrosive hardware, such as brackets, turnbuckles, clips and similar type equipment if used, shall be protected by plating or otherwise to guard against corrosion.
8. Every antenna must be adequately grounded, for protection against a direct strike of lightning, with an adequate ground wire. Ground wires shall be of the type approved by the latest edition of the Electrical Code for grounding masts and lightning arrestors and shall be installed in a mechanical manner, with as few bends as possible, maintaining a clearance of at least two inches from combustible materials. Lightning arrestors shall be used that are approved as safe by the Underwriters' Laboratories, Inc., and both sides of the line must be adequately protected with proper arrestors to remove static charges accumulated on the line. When lead-in conductors of polyethylene ribbon-type are used, lightning arrestors must be installed in each conductor. When coaxial cable or shielded twin lead is used for lead-in, suitable protection may be provided without lightning arrestors by grounding the exterior metal sheath.
9. Antennas may contain no sign or graphic design as defined in the Ashland Sign Code, even if the sign is permitted on the property. (Ord 2951, amended, 07/01/2008)

SECTION 18.72.180 Development Standards for Wireless Communication Facilities.

- A. **Purpose and Intent** - The purpose of this section is to establish standards that regulate the placement, appearance and impact of wireless communication facilities, while providing residents with the ability to access and adequately utilize the services that these facilities support.

Because of the physical characteristics of wireless communication facilities, the impact imposed by these facilities affect not only the neighboring residents, but the community as a whole.

The standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are mitigated to the greatest extent possible, especially in or near residential areas.

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- B. Submittals** - In addition to the submittals required in section 18.72.060, the following items shall be provided as part of the application for a wireless communication facility.
1. A photo of each of the major components of a similar installation, including a photo montage of the overall facility as proposed.
 2. Exterior elevations of the proposed wireless communication facility (min 1"=10').
 3. A set of manufacturers specifications of the support structure, antennas, and accessory buildings with a listing of materials being proposed including colors of the exterior materials.
 4. A site plan indicating all structures, land uses and zoning designation within 150 feet of the site boundaries, or 300 feet if the height of the structure is greater than 80 feet.
 5. A map showing existing wireless communication facility sites operated by the applicant within a 5 mile radius of the proposed site.
 6. A collocation feasibility study that adequately indicates collocation efforts were made and states the reasons collocation can or cannot occur.
 7. A copy of the lease agreement for the proposed site showing that the agreement does not preclude collocation.
 8. Documentation detailing the general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
 9. Any other documentation the applicant feels is relevant to comply with the applicable design standards.
 10. Documentation that the applicant has held a local community meeting to inform members of the surrounding area of the proposed wireless communication facility.
Documentation to include:
 - a. a copy of the mailing list to properties within 300' of the proposed facility.
 - b. a copy of the notice of community meeting, mailed one week prior to the meeting.
 - c. a copy of the newspaper ad placed in a local paper one week prior to the meeting.
 - d. a summary of issues raised during the meeting.
- C. Design Standards** - All wireless communication facilities shall be located, designed, constructed, treated and maintained in accordance with the following standards:
1. General Provisions
 - a. All facilities shall be installed and maintained in compliance with the requirements of the Building Code. At the time of building permit application, written statements from the Federal Aviation Administration (FAA), the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communication Commission that the proposed wireless communication facility complies with regulations administered by that agency, or that the facility is exempt from regulation.
 - b. All associated transmittal equipment must be housed in a building, above or below ground level, which must be designed and landscaped to achieve minimal visual impact with the surrounding environment.
 - c. Wireless communication facilities shall be exempted from height limitations imposed in each zoning district.
 - d. WCF shall be installed at the minimum height and mass necessary for its intended use. A submittal verifying the proposed height and mass shall be prepared by a licensed engineer.
 - e. Signage for wireless communication facilities shall consist of a maximum of two non-illuminated signs, with a maximum of two square feet each stating the name of the facility operator and a contact phone number.
 - f. Applicant is required to remove all equipment and structures from the site and return the site to its original condition, or condition as approved by the Staff Advisor, if the

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facility is abandoned for a period greater than six months. Removal and restoration must occur within 90 days of the end of the six month period.

2. Preferred Designs

- a. Where possible, the use of existing WCF sites for new installations shall be encouraged. Collocation of new facilities on existing facilities shall be the preferred option.
- b. If (a) above is not feasible, WCF shall be attached to pre-existing structures, when feasible.
- c. If (a) or (b) above are not feasible, alternative structures shall be used with design features that conceal, camouflage or mitigate the visual impacts created by the proposed WCF.
- d. If (a), (b), or (c) listed above are not feasible, a monopole design shall be used with the attached antennas positioned in a vertical manner to lessens the visual impact compared to the antennas in a platform design. Platform designs shall be used only if it is shown that the use of an alternate attached antenna design is not feasible.
- e. Lattice towers are prohibited as freestanding wireless communication support structures.

3. Landscaping. The following standards apply to all WCF with any primary or accessory equipment located on the ground and visible from a residential use or the public right-of-way.

- a. Vegetation and materials shall be selected and sited to produce a drought resistant landscaped area.
- b. The perimeter of the WCF shall be enclosed with a security fence or wall. Such barriers shall be landscaped in a manner that provides a natural sight obscuring screen around the barrier to a minimum height of six feet.
- c. The outer perimeter of the WCF shall have a 10 foot landscaped buffer zone.
- d. The landscaped area shall be irrigated and maintained to provide for proper growth and health of the vegetation.
- e. One tree shall be required per 20 feet of the landscape buffer zone to provide a continuous canopy around the perimeter of the WCF. Each tree shall have a caliper of 2 inches, measured at breast height, at the time of planting.

4. Visual Impacts

- a. Antennas, if attached to a pre-existing or alternative structure shall be integrated into the existing building architecturally and, to the greatest extent possible, shall not exceed the height of the pre-existing or alternative structure.
- b. Wireless communication facilities shall be located in the area of minimal visual impact within the site which will allow the facility to function consistent with its purpose.
- c. Antennas, if attached to a pre-existing or alternative structure shall have a non-reflective finish and color that blends with the color and design of the structure to which it is attached.
- d. WCF, in any zone, must be set back from any residential zone a distance equal to twice its overall height. The setback requirement may be reduced if, as determined by the Hearing Authority, it can be demonstrated through findings of fact that increased mitigation of visual impact can be achieved within of the setback area. Underground accessory equipment is not subject to the setback requirement.
- e. Exterior lighting for a WCF is permitted only when required by a federal or state authority.

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- f. All wireless communication support structures must have a non-reflective finish and color that will mitigate visual impact, unless otherwise required by other government agencies.
 - g. Should it be deemed necessary by the Hearing Authority for the mitigation of visual impact of the WCF, additional design measures may be required. These may include, but are not limited to: additional camouflage materials and designs, facades, specific colors and materials, masking, shielding techniques.
5. Collocation standards
- a. Each addition of an antenna to an existing WCF requires a building permit, unless the additional antenna increases the height of the facility more than ten feet.
 - b. Addition of antennas to an existing WCF that increases the overall height of the facility more than ten feet is subject to a site review. (Ord 2802, S3 1997)
- D. All installation of wireless communication systems shall be subject to the requirements of this section in addition to all applicable Site Design and Use Standards and are subject to the following approval process:

Zoning Designations	Attached to Existing Structures	Alternative Structures	Freestanding Support Structures
Residential Zones ⁽¹⁾	CUP	Prohibited	Prohibited
C-1	CUP	CUP	Prohibited
C-1-D (Downtown) ⁽²⁾	CUP	Prohibited	Prohibited
C-1 - Freeway overlay	Site Review	Site Review	CUP
E-1	Site Review	Site Review	CUP
M-1	Site Review	Site Review	CUP
SOU	Site Review	CUP	CUP
NM (North Mountain)	Prohibited	Prohibited	Prohibited
Historic District ⁽²⁾	CUP	Prohibited	Prohibited
A-1 (Airport Overlay)	CUP	CUP	CUP
HC (Health Care)	CUP	Prohibited	Prohibited
CM-NC	CUP	CUP	CUP
CM-OE	Site Review	Site Review	CUP
CM-CI	Site Review	Site Review	CUP
CM-MU	CUP	CUP	CUP
CM-OS	Prohibited	Prohibited	Prohibited

(Ord 2951, amended, 07/01/2008; Ord 3036, amended, 08/17/10)

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CHAPTER 18.76

PARTITIONS

SECTIONS:

- 18.76.010** **Proposals to be Submitted.**
- 18.76.020** **Preliminary Step.**
- 18.76.030** **Preliminary Map Requirements.**
- 18.76.040** **Administrative Preliminary Approval.**
- 18.76.050** **Preliminary Approval.**
- 18.76.060** **Preliminary Approval of Flag Partitions.**
- 18.76.070** **Notification.**
- 18.76.075** **Expiration of Preliminary Partition Plan.**
- 18.76.080** **Further Lot Division.**
- 18.76.090** **Conditions May be Set.**
- 18.76.100** **Final Step.**
- 18.76.110** **Final Map Requirements.**
- 18.76.120** **Acceptance of the Final Map.**
- 18.76.130** **Final Approval by the Secretary.**
- 18.76.140** **Lot Line Adjustments.**
- 18.76.150** **Issuance of Building Permits.**
- 18.76.160** **Selling and Negotiating for Land.**
- 18.76.170** **Exterior Unimproved Streets and Access Ways.**
- 18.76.180** **Private Ways.**
- 18.76.190** **Dedication of Property for Public Use.**

SECTION 18.76.010 Proposals to be Submitted.

Proposals for minor and major land partitioning shall be submitted to the Staff Advisor.

SECTION 18.76.020 Preliminary Step.

The applicant shall submit to the Planning Department a preliminary map of the proposed partition.

SECTION 18.76.030 Preliminary Map Requirements.

The preliminary map shall have a minimum size of eight and one half (8 ½) inches by eleven (11) inches and contain the following information:

- A. A map describing the boundaries of all contiguous land in the same ownership.
- B. The date, north arrow and scale of the drawing and a sufficient written description to define the location and boundaries of the particular area.
- C. The names, addresses and phone numbers of the owner, partitioner, and (if appropriate) the surveyor.
- D. The location, name and right-of-way width of all streets, alleys and private ways.
- E. The location and width of all public and private easements for drainage and public utilities.
- F. The dimensions (to the nearest foot) of the total area.

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- G. The number, dimensions (to the nearest foot) and square footage of the proposed lots.
- H. The location of all existing and proposed structures on the property, including structures on adjacent properties that are within twenty-five (25) feet of the subject lot lines.
- I. The approximate location of areas subject to inundation or storm water overflow, all areas covered by water, and the location, width and direction of flow of all water courses.
- J. The names of the recorded owners of all land adjacent to the partition.
- K. An indication of the direction and approximate degree of slopes.

SECTION 18.76.040 Administrative Preliminary Approval.

Preliminary approval for all minor land partitions which require no Type II variances shall be processed under the Type I procedure.

SECTION 18.76.050 Preliminary Approval

An application for a preliminary partition shall be approved when the following conditions exist:

- A. The future use for urban purposes of the remainder of the tract will not be impeded.
- B. The development of the remainder of any adjoining land or access thereto will not be impeded.
- C. The tract of land has not been partitioned for 12 months.
- D. The partitioning is not in conflict with any law, ordinance or resolution applicable to the land.
- E. The partitioning is in accordance with the design and street standards contained in the Chapter 18.88, Performance Standards Options.
(Ord 2836 S8, 1999)
- F. When there exists adequate public facilities, or proof that such facilities can be provided, as determined by the Public Works Director and specified by City documents, for water, sanitary sewers, storm sewer, and electricity.
- G. When there exists a 20-foot wide access along the entire street frontage of the parcel to the nearest fully improved collector or arterial street, as designated in the Comprehensive Plan. Such access shall be improved with an asphaltic concrete pavement designed for the use of the proposed street. The minimum width of the street shall be 20-feet with all work done under permit of the Public Works Department.
 - 1. The Public Works Director may allow an unpaved street for access for a minor land partition when all of the following conditions exist:
 - a. The unpaved street is at least 20-feet wide to the nearest fully improved collector or arterial street.
 - b. The centerline grade on any portion of the unpaved street does not exceed ten percent.
 - 2. Should the partition be on an unpaved street and paving is not required, the applicant shall agree to participate in the costs and to waive the rights of the owner of the subject property to remonstrate both with respect to the owners agreeing to participate in the cost of full street improvements and to not remonstrate to the formation of a local improvement district to cover such improvements and costs thereof. Full street improvements shall include paving, curb, gutter, sidewalks and the undergrounding of utilities. This requirement shall be precedent to the signing of the final survey plat, and if the owner declines to so agree, then the application shall be denied.
- H. Where an alley exists adjacent to the partition, access may be required to be provided from the alley and prohibited from the street.

(ORD 2951, amended, 07/01/2008)

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SECTION 18.76.060 Preliminary Approval of Flag Partitions.

Partitions involving the creation of flag lots shall be approved by the Planning Commission if the following conditions are satisfied:

- A. Conditions of the previous section have been met.
- B. Except as provided in subsection 18.76.060.K, the flag drive for one flag lot shall have a minimum width of 15 feet, and a 12 foot paved driving surface. For drives serving two lots, the flag drive shall be 20 feet wide, with 15 feet of driving surface to the back of the first lot, and 12 feet, respectively, for the rear lot. Drives shared by adjacent properties shall have a width of 20 feet, with a 15 foot paved driving surface.

Flag drives shall be constructed so as to prevent surface drainage from flowing over sidewalks or other public ways. Flag drives shall be in the same ownership as the flag lots served. Where two or more lots are served by the same flag drive, the flag drive shall be owned by one of the lots and an easement for access shall be granted to the other lot or lots. There shall be no parking 10 feet on either side of the flag drive entrance.

Flag drive grades shall not exceed a maximum grade of 15%. Variances may be granted for flag drives for grades in excess of 15% but no greater than 18% for no more than 200'. Such variances shall be required to meet all of the criteria for approval as found in 18.100.

Flag drives serving structures greater than 24 feet in height, as defined in 18.08.290, shall provide a Fire Work Area of 20 feet by 40 feet within 50 feet of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

Flag drives and fire work areas shall be deemed Fire Apparatus Access Roads under the Oregon Fire Code and subject to all requirements thereof.

When required by the Oregon Fire Code, flag drives greater than 150 feet in length shall provide a turnaround as defined in the Performance Standards Guidelines in 18.88.090. The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of 250 feet in length as allowed by Oregon Fire Code access exemptions.

- C. Each flag lot has at least three parking spaces situated in such a manner as to eliminate the necessity for backing out.
- D. Curb cuts have been minimized, where possible, through the use of common driveways.
- E. Both sides of the flag drive have been screened with a site-obscuring fence, wall or evergreen hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed at the extreme outside of the flag drive in order to ensure adequate fire access.
- F. The applicant has executed and filed with the Planning Department an agreement between applicant and the city for paving and screening of the flag drive. Such an agreement shall specify the period within which the applicant, or agent for applicant, or contractor shall complete the paving to standards as specified by the Director of Public Works and screening as required by this section, and providing that if applicant should fail to complete such work within such period, the City may complete the same and recover the full cost and expense thereof from the applicant. An agreement shall also provide for the maintenance of the paving and screening to standards as indicated in this section and the assurance that such maintenance shall be continued.

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- G. A site plan has been approved by the Planning Commission. The site plan shall be approved provided the regulations of the zoning and subdivision titles are satisfied. Such a site plan shall contain the map requirements listed in Section 18.76.050 and the following information:
1. The location of driveways, turnarounds parking spaces and useable yard areas.
 2. The location and type of screening.
 3. For site plans of a flag lot, the building envelope shall be identified.
- H. No more than two lots are served by the flag drive.
- I. For the purpose of meeting the minimum lot area requirement, the lot area, exclusive of the flag drive area, must meet the minimum square footage requirements of the zoning district.
- J. Flag lots shall be required to provide a useable yard area that has a minimal dimension of 20 feet wide by 20 feet deep. As used in this chapter, the term "useable yard area" means a private yard area which is unobstructed by a structure or automobile from the ground upward.
- K. Flag lots adjacent to an alley shall meet all of the requirements of this section, except that:
1. Vehicle access shall be from the alley only where required as a condition of approval;
 2. No screening and paving requirements shall be required for the flagpole;
 3. A four foot pedestrian path shall be installed within the flag pole, improved and maintained with either a concrete, asphalt, brick, or paver block surface from the street to the buildable area of the flag lot;
 4. The flag pole width shall be no less than eight feet wide and the entrance of the pole at the street shall be identified by the address of the flaglot clearly visible from the street on a 4" X 4" post 3½ feet high. The post shall be painted white with black numbers 3 inches high running vertically down the front of the post. For flagpoles serving two or more dwellings, the addresses of such dwellings shall be on a two feet by three feet white sign clearly visible from the street with three inch black numbers.

(ORD 2951, amended, 07/01/2008)

SECTION 18.76.070 Notification.

On any partition where the number of lots is increased, property owners that are within two hundred (200) feet of the exterior boundaries of the proposed partition shall be notified by mail at least ten (10) days before preliminary approval is granted.

SECTION 18.76.075 Expiration of Preliminary Partition Plan.

Preliminary partition plans approved under this Chapter shall expire if a final partition plat has not been approved by the City within eighteen (18) months of preliminary plan approval.

(ORD 2951, added, 07/01/2008)

SECTION 18.76.080 Further Lot Division.

When the lots of a partition can be further divided, the Planning Commission may require a development plan for the tract of land. If the Planning Commission determines that an area or tract of land has been or is in the process of being divided into four (4) or more lots, it can require full compliance with all Subdivision regulations.

SECTION 18.76.090 Conditions May be Set.

The Planning Commission or the Staff Advisor may require dedication of land or easements, signing in favor of street improvements, and conditions or modifications relating to

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improvements such as sidewalks, utilities, and the standards of the Subdivision Chapter and the development plan for the area. In no event shall the Planning Commission or the Staff Advisor require greater dedications or conditions than could be required if the area were subdivided. Underground utilities shall be required in connection with all land partition applications as set forth in subsections 18.80.060(C) through 18.80.060(F) of this Title.

SECTION 18.76.100 Final Step.

Within twelve (12) months of the date of preliminary map approval, the tract of land shall be surveyed, pins set at all corners, and a final map submitted to the Planning Department incorporating any conditions or modifications of the map's preliminary approval. If the applicant has not completed the foregoing within the twelve (12) month period, the applicant must resubmit the partition for preliminary approval consideration.

SECTION 18.76.110 Final Map Requirements.

The map to be filed with the County Clerk shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on polyester-base film having a minimum thickness of .003", 18" x 24". If ink is used on polyester-base film, the ink surface shall be coated with a suitable substance to ensure permanent legibility. An autopositive in black on polyester-base film shall also be filed with the County Surveyor. A reproducible copy of the final map shall be filed with the City Engineer. The map shall incorporate the following items before approval will be given:

- A. Title block, top and center specifying "minor or major partition", the partition number, City of Ashland and the applicant's name.
- B. Name of the property owner and developer.
- C. Number of each lot in the partition.
- D. Date, scale and north point (arrow) generally pointing to the top of the map.
- E. Basis of bearing determined by solar observation, Polaris observation, or true bearing determined from the National Oceanic and Atmospheric Administration Survey Net (formerly Coast and Geodetic Survey).
- F. The name and right-of-way width of adjacent streets, alleys and private ways.
- G. Irrigation and drainage easements. Those portions of land within the boundaries of the partitioning subject to periodic inundation which affect the intended use of the land together with the method or source of such determination. Also, other easements of record or conditions which affect the title of land or the use of land.
- H. All stakes, monuments, or other evidence found and used to establish boundaries of the partition. Any lines or boundaries shown by approximation clearly identified as such.
- I. Established center lines by the City of adjoining streets.
- J. The length of all arcs, radii and central angles. Adjust all distances to the nearest 100th of a foot, except on curves, which may be shown closer. Adjust all bearings to the nearest ten (10) seconds. The error of field closure shall not exceed one (1) foot in five thousand (5,000).
- K. Area of each parcel expressed in either square feet or acres.
- L. Monumentation:
 1. All monuments shall be a minimum diameter of five-eighths inches (5/8") for iron pins and a minimum inside diameter of one-half inches (1/2") for iron pipes. For concrete monuments, refer to ORS 92.060 as amended by Senate Bill No. 487.
 2. Witness corners may be set when it is impractical or impossible to set a monument in its

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- true position, providing course and distance are given to the true position.
3. All monuments shall be clearly identified with the surveyor's or engineer's name or registration number.
- M. Certification of approval before filing with County Clerk and County Surveyor:
1. Signature of approval on the face of the map by the Executive Secretary of the Planning Commission, or authorized representative.
 2. Dedication of easements for utilities and/or widening of street shall be made on the face of the map. Statement of dedication by owner-developer with signature attested to by notarization.
 3. Surveyor's certificate is to be shown with surveyor's seal and signature on the face of the map.
 4. Signature of approval by the City Engineer is required when dedication of streets or easements is made on the map.
- N. Discovery of error and omissions:
1. All corrections or additions on a final map shall be made in ink suitable for the material and sprayed with suitable plastic material for preservation, including those prior to recording.
 2. He shall file an affidavit stating the nature of the error with the County Recorder.
 3. The map then shall be corrected and initialed by the surveyor under the direction of the County Surveyor.
 4. The affidavit document number and date shall be placed on the face of the map that is recorded.

SECTION 18.76.120 Acceptance of the Final Map.

Final maps offered for approval shall not be accepted if the individual or agent of a corporation being responsible for the final map is acting simultaneously as the surveyor or engineer for the applicant or developer and the entity having jurisdiction of the minor and major partitioning.

SECTION 18.76.130 Final Approval by the Secretary.

When the Staff Advisor determines that the final map conforms to the final map requirements and specifications and the conditions (if any) of preliminary approval, the Secretary, or authorized representative, shall date and sign the final map.

SECTION 18.76.140 Lot Line Adjustments.

The adjustment of a lot line by the relocation of a common boundary, where the number of parcels is not changed and all zoning requirements are met, shall be accepted by the City, provided the requirements of Sections 18.76.090 through 18.76.130 are satisfied, in addition to Section 18.76.170, where the lot adjustment causes access to be changed to an exterior unimproved street.

SECTION 18.76.150 Issuance of Building Permits.

The final map shall receive final approval and pins set before the issuance of a building permit.

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SECTION 18.76.160 Selling and Negotiating for Land.

A portion or portions of a tract or area of land shall not be sold, leased, or the right of possession changed without prior final approval of a partition. However, a person may offer or negotiate to sell, lease, or change the right of possession of any parcel prior to the approval of a final partition map.

SECTION 18.76.170 Exterior Unimproved Streets and Access Ways.

The following improvements are required for property being minor land partitioned adjacent to a street not improved to full city and standards. Major land partitions shall comply with the requirements of the Street Standards in Chapter 18.88, Performance Standards Options. These requirements shall apply to streets which are dedicated in whole or in part, or where the Planning Commission finds that it is essential to the future development and interior access or circulation of an area for dedication to be provided. All improvements shall be along the entire frontage of the property and along the unimproved street to the nearest fully improved collector or arterial street, and are to be installed at the expense of the land divider.

(Ord 2551 S3, 1990)

- A. The final elevation of the street be established as specified by the Director of Public Works except where the establishment of the elevation would produce a substantial variation in the level of the road surface. In this case, the lot's slopes shall be graded to meet the final street elevation.
- B. The street be graded (cut and filled) to its standard physical width, and surfaced as required in 18.76.050 G. prior to the signature of the partition survey plan by the City of Ashland.
- C. Drainage ditches be provided at the probable curb and gutter location.
- D. Pedestrian ways (unimproved sidewalks) be provided within the street right-of-way between the drainage ditch and the property line.
- E. The street be surfaced as required in 18.76.050 G. to a minimum width of twenty (20) feet with all work done under permit from the Public Works Department.

(Ord 2551 S5, 1990)

- F. Functional, not legal, access may be obtained through use of a deeded easement where serving not more than two (2) dwellings, and access shall meet the requirements for a flag drive.

(Ord 2836 S9, 1999)

SECTION 18.76.180 Private Ways.

Private ways may be created as provided in 18.80.030(B)(1).

SECTION 18.76.190 Dedication of Property for Public Use.

The requirement of fulfilling minor partitioning procedures may be waived in instances of partitioning for dedications of property for public use as street right-of-way.

(Ord. 2228, 1982)

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CHAPTER 18.80

SUBDIVISIONS

SECTIONS:

- 18.80.010** **Proposals to be Submitted.**
- 18.80.020** **Design Standards.**
- 18.80.030** **Approval of streets.**
- 18.80.040** **Preliminary plat.**
- 18.80.050** **Final plat.**
- 18.80.060** **Improvements.**

SECTION 18.80.010 Proposals to be Submitted.

Proposals for subdivision of land shall be submitted to the Planning Commission for approval through the Director of Public Works. Such proposals shall conform to all provisions of this Chapter.

SECTION 18.80.020 Design Standards.

- A. **Acceptability - principles:** The subdivision shall conform with any development plans and shall take into consideration any preliminary plans made in anticipation thereof. The subdivision shall conform with the requirements of State laws and the standards established by this Chapter.
- B. **Streets:** The Street Standards in Chapter 18.88, Performance Standards Options, shall apply to developments under this chapter.
 - 1. **Reserve Strips.** Reserve strips or street plugs shall be created to control access onto any street which terminates upon any undeveloped land through which the street might logically extend. In such cases, the street shall be provided to within one foot of the boundary line of the tract with the remaining one foot being granted in fee to the City as a reserve strip. Upon approved dedication of the extension of the affected street, the one-foot reserve strip shall be dedicated by the City to the public use as a part of said street. This dedication will be automatic and without further action by the City. This action shall also apply retroactively to all previously created reserve strips where the streets have been extended and dedicated for street purposes.
(Ord. 2436, 1987)
 - 2. **Alignment.** All streets as far as is practical shall be in alignment with the existing streets by continuation of the center lines thereof. The staggering of street alignment resulting in "T" intersections shall wherever practical leave a minimum distance of 125 feet between the center lines of streets.
 - 3. **Future extension of streets.** Where necessary to give access to or permit a satisfactory subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without a turnaround. Reserve strips and street plugs may be required to preserve the objectives of street extensions.
 - 4. **Intersection angles.** Streets shall be laid out to intersect at an angle as near to a right angle as practical, except where topography requires a lesser angle. Property lines at

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intersections with arterial streets shall have a minimum corner radius of twenty (20) feet and property lines at other street and alley intersections shall have a minimum corner radius adequate to allow sidewalk and utility space and a curb radius of ten (10) feet.

5. Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.
6. Frontage and limited access roads may be required as defined in Sections 18.72.040(L) and 18.72.040(M) of this Title.
7. Access to subdivision. All major means of access to a subdivision or major partition shall be from existing streets fully improved to City standards, and which, in judgment of the Director of Public Works, have the capacity to carry all anticipated traffic from the development.
8. Half streets. Half streets, while generally not acceptable, may be approved when essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street may be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of the half streets.
9. Cul-de-sacs. A cul-de-sac shall be as short as possible and shall have a maximum length of five hundred (500) feet. All cul-de-sacs shall terminate with a circular turnaround unless alternate designs for turning and reversing direction are approved by the Planning Commission.
10. Street names. No street name shall be used which will duplicate or be confused with the names of existing streets in Ashland and vicinity except for extensions of existing streets. Streets which are an extension of, or are in alignment with, existing streets shall have the same name as the existing street. Street names and numbers shall conform to the establishment pattern for the City and shall be subject to the approval of the Planning Commission.
11. Streets adjacent to railroad right-of-way. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be great enough to provide sufficient depth to allow screen planting along the railroad right-of-way.

C. Easements.

1. Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be a minimum of ten (10) feet in width.
2. Watercourses. Where a subdivision is traversed by a watercourse such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose. Streets or parkways parallel to major watercourses may be required.

D. Lots.

1. Lots shall meet the requirements of the zone in which the subdivision is located. These minimum standards shall apply with the following exceptions:
 - a. In areas that will not be served by a public sewer, minimum lot size shall be increased to conform with the requirements of the County Health Department and

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shall take into consideration problems of water supply and sewer disposal.

- b. Minimum lot standard shall not conflict with City zoning standards.
 - c. Where property is zoned and planned for industrial or business use, other standards may be permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
2. Access. Each lot shall abut upon a street, other than an alley, for a width of at least forty (40) feet, except in the case of lots located upon the curved portion of cul-de-sacs or knuckles, or in the case where topography warrants a narrower width. In no case shall a lot abut upon a street for a width of less than twenty-five (25) feet.
 3. Through lots. Through lots shall be avoided except where essential to provide separation or residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, may be required along the line of lots abutting such a traffic artery or other disadvantageous use. Through lots with planting screens shall have a minimum average depth of one hundred ten (110) feet.
 4. Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lot faces.
- E. **Lot grading**. Lot grading shall conform to the following standards unless physical conditions demonstrate the propriety of other standards.
1. Cut slopes shall not be steeper than one and one-half (1 ½) feet horizontally to one (1) foot vertically.
 2. Fill slopes shall not be steeper than two (2) feet horizontally to one (1) foot vertically.
 3. Cut slopes and fill slopes along side and rear lot lines shall be planted with ground cover and shrubs or trees, or by some other method approved by the City.
- F. **Large lot subdivision**. In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the Planning Commission may require that the blocks shall be of a size and shape, be divided into lots and contain building site restrictions to provide for extension and opening of streets at intervals which will permit a subsequent division of each parcel into lots of smaller size.
- G. **Land for public purposes**.
1. The Planning Commission may require the reservation for public acquisition, at a cost not to exceed acreage values in the area prior to subdivision, of appropriate areas within the subdivision for a period not to exceed one (1) year, providing the City knows of an intention on the part of the State Highway Commission, school district or other public agency to acquire a portion of the area within the proposed subdivision for a public purpose, including substantial assurance that positive steps will be taken in the reasonable future for the acquisition.
 2. The Planning Commission may require the dedication of suitable areas for the parks and playgrounds that will be required for the use of the population which is intended to occupy the subdivision.
- H. **Landscaping**. The Planning Commission shall ensure that lot coverage requirements of the zoning district are met appropriately. If lot disturbance exceeds the percentage allowable, the subdivider shall submit as part of the Final Plat procedure, a landscaping plan to be

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approved by the Commission, and which will conform with the letter and intent of the zone district requirements, the slope requirements in the General Regulations of this Title, and any other applicable section. Performance shall be assured in accordance with Section 18.80.050 of this Chapter.

- I. **Exceptions - large scale development.** The Planning Commission may modify the standards and requirements of this Chapter if the subdivision plat comprises a complete neighborhood unit, a large scale shopping center, or a planned industrial area. The Planning Commission shall determine that such modifications are not detrimental to the public health, safety, and welfare and that adequate provision is made within the development for traffic circulation, open space, and other features that may be required in the public interest.

- J. The Planning Commission may modify the standards and requirements of this Chapter where the applicant presents innovative design concepts that will assist in providing livable housing at reasonable cost. Such modifications of standards shall be made only in conformance with the intent of this Chapter, and in conformance with all applicable portions of this Title.

(Ord 2836 S10, Amended, 02/02/1999, 18.80.020 (B) (C) amended)

SECTION 18.80.030 Approval of streets.

A. Creation of streets.

- 1. The Street Standards in Chapter 18.88, Performance Standards Options, shall apply to developments under this chapter, except that the Planning Commission shall approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions when any of the following conditions exist:
 - a. The establishment of a street is initiated by the City Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
 - b. The tract in which the street is to be dedicated is an isolated ownership of one (1) acre or less.
- 2. In those cases where approval of a street may be given without full compliance with the regulations applicable to subdivision, a copy of the proposed deed shall be submitted to the City prior to the Planning Commission meeting at which consideration is requested. The deed, and such information as may be submitted, shall be reviewed by the Planning Commission and, if not in conflict with the design standards (Section 18.80.020), shall be approved with conditions necessary to preserve these standards. Within ninety (90) days following approval, the street shall be surveyed, mapped, and duly recorded with the County Surveyor.

(Ord 2836 S11, 1999)

B. Creation of private ways.

- 1. Any easement of way providing access to property and which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street either in a subdivision or as provided in "A" above, except that a private way to be established by deed without full compliance with these regulations shall be reviewed as a Type I Procedure if it is the only reasonable means of access to a landlocked parcel.

(Ord. 2121 S7, 1981.)

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SECTION 18.80.040 Preliminary plat.

- A. **Submission.** The subdivider shall submit eight (8) copies of a preliminary plat and other supplementary material as may be required to indicate the general program and objectives of the project to the office of the Director of Public Works. The plat shall be prepared by a registered surveyor.
- B. **Scale.** The preliminary plat shall be drawn on a sheet eighteen (18) inches by twenty-four (24) inches in size at a scale no smaller than one (1) inch equals one hundred (100) feet.
- C. **General information.** The following general information shall be shown on the preliminary plat:
1. Proposed name of the subdivision, which must not duplicate nor resemble the name of another subdivision in Jackson County and shall be approved by the Planning Commission.
 2. Date, north point, and scale of drawing.
 3. Appropriate identification clearly stating the map is a preliminary plat.
 4. Location of the subdivision sufficient to define the location and boundaries of the proposed tract.
 5. Names and addresses of the owner, subdivider, and surveyor.
- D. **Existing conditions.** The following existing conditions shall be shown on the preliminary plat:
1. The location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements and other important features, such as section lines and corners, and monuments.
 2. Location and direction of all watercourses and areas subject to flooding.
 3. Natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees.
 4. Existing uses of the property, including location of all existing structures to remain on the property after platting.
 5. Zoning on and adjacent to the tract.
 6. Contours at an interval of five (5) feet.
- F. **Land division - proposed plan.** The following information shall be included on the preliminary plat.
1. The location, width, names and approximate grades of streets, and the relationship of the streets to any projected streets as shown on any development plan adopted by the Planning Commission, or if there is no development plan, as suggested by the City to assure adequate traffic circulation.
 2. The location and purpose of easements.
 3. The location, approximate dimensions, and proposed lot and block numbers, for all lots and blocks.
 4. Sites, if any, allocated for purposes other than single family dwellings.
- G. **Partial development.** Where the plat to be subdivided contains only part of the tract owned or controlled by the subdivider, the Planning Commission may require a Master Plan for the unsubdivided portion.
- H. **Explanatory information.** The following information shall be submitted in separate statements accompanying the preliminary plat or, if practicable, shall be shown on the

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preliminary plat:

1. A vicinity map, showing existing subdivisions, streets, and unsubdivided land adjacent to the proposed subdivision and showing how proposed streets may be extended to connect with the existing streets.
2. Proposed deed restrictions, if any, in outline form.
3. Where there are slopes in excess of ten (10) percent within the area to be subdivided, a preliminary grading plan may be required by the Planning Commission. A grading plan should show existing and finished grades on lots and streets proposed to be graded. Before grading can begin, the grading plan shall be approved by the Planning Commission, which may request a review and report from the City Engineer.

I. Tentative approval.

1. Within thirty (30) days from the first regular Planning Commission meeting following submission of the plat, the Planning Commission will review the plan and may give tentative approval of the preliminary plat as submitted or as it may be modified or, if disapproved, shall express its disapproval and its reasons therefor.
2. Approval of the preliminary plat shall indicate the Planning Commission's approval of the final plat provided there is no change in the plan of subdivision as shown on the preliminary plat and there is full compliance with the requirements of this Title.
3. The action of the Planning Commission shall be noted on two (2) copies of the preliminary plat, including reference to any attached documents, describing conditions. One (1) copy shall be returned to the subdivider and the other retained by the Planning Commission.

(Ord. 2052, 1979)

SECTION 18.80.050 Final plat.

- A. Submission.** Within twelve (12) months after tentative approval of the preliminary plat, the subdivider shall cause the subdivision or any part thereof to be surveyed and a final plat prepared in conformance with the preliminary plat as tentatively approved. The subdivider shall submit the original drawing, an exact or auto positive copy, five (5) prints of the final plat, and any supplementary information to the City. If the subdivider wishes to proceed with the subdivision after the expiration of the twelve (12) month period following the tentative approval of the preliminary plat by the Planning Commission, the preliminary plat must be resubmitted to the Planning Commission and showing any revision considered necessary to meet changed conditions. If the final plan or the first phase of the plan is not approved within eighteen (18) months from the date of the approval of the preliminary plat is terminated and void and of no effect whatsoever. Extensions, prior to the expiration date, may be granted as a Type I procedure as set forth in Chapter 18.108 of this Title.

(Ord. 2097 S22, 1980)

- B. Information.** In addition to that otherwise specified by law, the following information shall be shown on the final plat:

1. The date, scale, north point, legend and controlling topography such as creeks, ditches, highways, and railroad right-of-way.
2. Legal description of the tract boundaries and the file number of the subdivision.
3. Name and address of the owner, subdivider, and surveyor.
4. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:
 - a. Stakes, monuments, or other evidence found on the ground and used to determine

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- the boundaries of the subdivision.
- b. Adjoining corners of adjoining subdivisions.
 - c. Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this Title.
5. The exact location and width of streets and easements intersecting the boundary of the tract.
 6. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings for tract, lot, and boundaries and street bearings. All distances shall be shown to the nearest one-hundred (100) feet. No ditto marks shall be used.
 7. The width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line and, in addition to center line dimensions, the radius and central angle shall be indicated.
 8. Easements denoted by fine dotted lines, clearly identified and, if already of record, its recorded reference; if an easement is not definitely located of record, a statement of the easement, the width of the easement, its length and bearing and sufficient ties to locate the easement with respect to the subdivision must be shown; if the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.
 9. Lot numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout each block of the subdivision.
 10. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure. Block numbers in addition to a subdivision of the same name shall be a continuation of the numbering in the original subdivision.
 11. Land parcels to be dedicated for any purpose, public or private, to be distinguished from lots intended for sale.
 12. Building setback lines, if any, are to be made a part of the subdivision restrictions.
 13. The following certificates which may be combined where appropriate.
 - a. A certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.
 - b. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final plat and intended for any public use, except those parcels which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, and servants.
 - c. A certificate signed by the surveyor responsible for the survey and final map (the signature of the engineer or surveyor to be accompanied by their seal).
 - d. All other certifications now or hereafter required by law.
 14. Survey requirements.
 - a. Basis of bearing determined by solar observation, polaris observation or true bearing determined from the National Oceanic and Atmospheric Administrator Survey Net (formerly Coast and Geodetic Survey).
 - b. All monuments shall be minimum diameter of five-eighths inch (5/8") for iron pins and a minimum inside diameter of one-half inch (1/2") for iron pipes. For concrete monuments, refer to O.R.S. 92.060 as amended by Senate Bill No. 487.
 - c. All monuments shall be clearly identified with the surveyor's name and/or registration number.
 - d. Witness corners may be set when it is impractical or impossible to set a monument on its true position providing course and distance is given to the true position.

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- e. Marking interior monuments after recording of plat may be accomplished under the following conditions:
 - 1. That an approved bond or cash deposit be furnished to the City of Ashland in an amount equal to the estimated cost of performing the work.
 - 2. That all conditions set forth under O.R.S. 92.065 be adhered to.
- 15. Discovery of Error and Omissions.
 - a. All corrections or additions on a final map shall be made in ink suitable for the material and sprayed with suitable plastic material for preservation, including those prior to recording.
 - b. When an error is discovered on a recorded survey, the surveyor who made the error may make corrections providing:
 - 1. Errors shall be corrected by lining out and no erasures will be permitted.
 - 2. An affidavit stating the nature of the error or errors shall be filed with the County Recorder.
 - 3. The map then shall be corrected and initialed by the surveyor under the direction of the County Surveyor.
 - 4. The affidavit document number and date shall be placed on the face of the map that is recorded.
- C. **Supplemental information.** The following shall accompany the final plat:
 - 1. A subdivision guarantee or other report from a title insurance company which shows all of the parties who are either the fee owners or mortgage or lien holders concerning the land to be subdivided.
 - 2. Sheets and drawings showing the following:
 - a. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any.
 - b. The computation of all distances, angles, and courses shown on the final map.
 - c. Ties to existing monuments, proposed monuments, adjacent subdivisions, and street corners.
 - 3. A copy of any deed restrictions applicable to the subdivision.
 - 4. Plans for the disposition, development, and maintenance of any common open space, including legal agreements related thereto.
- D. **Technical review.** Upon receipt by the City, the final map and other data shall be reviewed by the City Engineer and Staff Advisor who shall determine whether the subdivision as shown is substantially the same as it appeared on the approved preliminary plat and that there has been compliance with provisions of the law and of this code. The City may make such checks in the field as are desirable to verify that the map is sufficiently correct on the ground and City representatives may enter the property for this purpose. If the City Engineer determines that full conformity has not been made, the subdivider shall be advised of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions.
- E. **Approval.** If the City Surveyor and Staff Advisor determine that the final plat is in full conformance with the approved preliminary plat and other regulations, the Staff Advisor and the City Surveyor may then sign the plat without further action by the Planning Commission. If the final plat is not in full conformance or if the City Surveyor elects, the plat shall be submitted to the Planning Commission. When submitted to the Planning Commission, approval of the final plat shall be by a majority of those present. If the plat is signed without further review by the Planning Commission, the action shall be reported to the Planning

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Commission by the Chairman of the Commission at the next regular meeting. Provided, however, that prior to certifying its approval on the final plat, the Planning Commission shall require the subdivider to file the agreement and bond or make the deposit required in Sections F and G below.

(Ord. 2787, 1996)

- F. Agreement for improvements.** Before Planning Commission approval is certified on the final map, the subdivider shall either install required improvements or shall execute and file with the City Engineer an agreement between the subdivider and the City, specifying the period within which the subdivider, or agent for subdivider, or contractor shall complete all improvement work required by or pursuant to this Title, and providing that if subdivider shall fail to complete such work within such period the City may complete the same and recover the full cost and expense thereof from the subdivider. The agreement shall also provide for reimbursement to the City by the subdivider for the cost of inspection by the City Engineer. Such agreement may also provide for the construction of the improvements in units, for an extension of time under conditions therein specified, and for the termination of the agreement upon the completion of proceedings under an assessment district act for the construction of improvements deemed by the City to be at least the equivalent of the improvements specified in said agreement and required to be constructed by the subdivider.

The time period for completion shall not exceed eighteen (18) months for a subdivision, or one (1) of not more than three (3) phases of a subdivision, each containing no fewer than twenty (20) units. Following expiration of the allowed time period, failure to complete may be met by the City completing the work as specified above, or by voiding of the final plat. The course chosen shall depend on the stage of completion, if any, and the nature of the surrounding area. The decision regarding completion or plat voiding shall be made by the Planning Commission.

G. Bond.

1. The subdivider shall file with the agreement, to assure full and faithful performance thereof, one of the following:
 - a. An irrevocable letter of credit payable to the City in the event the agreement for improvements is not performed.
 - b. A surety bond executed by a surety company authorized to transact business in the state.
 - c. Cash.
2. Such assurance of full and faithful performance shall be for a sum approved by the City Engineer as sufficient to cover the cost of said improvements, engineering, inspection, and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the City Engineer as to form.
3. In the event the subdivider fails to complete all improvement work in accordance with the provisions of this Title, and the City has completed same, or if the subdivider fails to reimburse the City for the cost of inspection, engineering, and incidental expenses, and to cover cost of replacement and repair of existing streets or other improvements damaged in the development of the subdivision, the City shall call on the surety for reimbursement, or shall appropriate from any cash deposits funds for reimbursement. In any such case, if the amount of surety bond or cash deposit exceeds all cost and expense incurred by the City, it shall release the remainder of such bond or cash deposit, and if the amount of the surety bond or cash deposit is less than the cost and

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expense incurred by the City, the subdivider shall be liable to the City for such difference.

- H. **Filing.** The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat is null and void if the plat is not recorded within sixty (60) days after the date the last required signature has been obtained.

SECTION 18.80.060 Improvements.

- A. **Improvement procedure.** In addition to other requirements, improvements installed by the subdivider either as a requirement of these regulations or at subdividers own option shall conform to the requirements of this Title and improvement standards and specifications followed by the City. The improvements shall be installed in accordance with the following procedure:

1. Work shall not begin until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the subdivision proposal, the plans may be required before approval of the final map.
2. Work shall not begin until the City has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
3. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require changes in typical sections and details if unusual conditions arise during construction to warrant the change in the public interest.
4. All underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities and sanitary sewers shall be placed to such lengths as will obviate the necessity for disturbing the street improvements when service connections are made.
5. A reproducible map showing all public improvements as built shall be filed with the City Engineer upon completion of such improvements.

- B. **Improvement requirements.** Improvements to be installed at the expense of the land divider are as follows:

1. Interior streets. All interior streets shall be graded for the entire right-of-way width, and roadways shall be improved with paving, curbs, gutters, and drainage. The subdivider shall improve the extension of all subdivision streets to the center line of existing streets with which subdivision streets intersect.
2. Exterior unimproved streets. When part of a proposed subdivision or major land partition abuts an existing unimproved street, the property owner, or a representative, shall satisfy the minor land partition improvement requirements and sign an agreement in favor of improving said street in the future to full City standards as outlined in this Section.
3. Structures. Structures specified as necessary by the City, for drainage, access, and public safety shall be installed.
4. Sidewalks. Sidewalks may be required on one (1) or both sides of the street at the discretion of the Planning Commission. Such requirement shall be related to the general level and type of development in the area, the anticipated level of pedestrian traffic, and the safety and convenience of children and other pedestrians.
5. Improvements to be installed or provided by subdividers include all items required by the Director of Public Works at the time of the subdivider's plat and construction plan and specification approval.

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6. Sewers. Sanitary sewer facilities including laterals connecting with the existing City sewer system shall be installed to serve each lot. No septic tanks or cesspools will be permitted within the City. Storm water sewers shall be installed as required by the City.
 7. Water. Water mains and services, fire hydrants of design, layout, and locations approved by the Director of Public Works as conforming to City standards shall be installed.
 8. Street trees. Street trees may be required by the Planning Commission and shall conform with a City street tree plan or specific requirements of the Commission relating to tree type, size and spacing.
 9. Landscaping on lots where the allowable percentage of lot disturbance has been exceeded.
 10. Monuments. Upon completion of street improvements, monuments shall be re-established and protected in monument boxes at every street intersection and at all points of intersection, or at all points or curvature and points of tangency of street center lines.
- C. **Underground utilities - required.** All on site utility lines, including but not limited to electric, communications, street lighting, and cable television, shall be installed underground, except as provided in "D" below. For the purpose of this section, appurtenances and associated equipment such as, but not limited to, surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, terminations for concealed ducts in an underground system, and street lighting structures and fixtures may be placed above ground. This section does not apply to utility lines which do not provide service to the area being subdivided.
- D. **Underground Utilities - Exceptions.** Minor land partitions shall not be required to provide underground utilities, provided that all new service for residential uses shall have installed a service panel and stubbed conduit to convert to underground utilities at a future date.
- E. **Underground Utilities - Cost.** The developer shall deposit with the City the total fee required in Section 14.16.030 of this Code, and shall be responsible for all trenching and backfilling.
(Ord. 2148 S2, 1981)
- F. **Underground Utilities - Rules and Regulations.** The City Council may, by resolution, adopt rules and regulations governing the installation and allocation of costs for underground utility extensions.
(Ord. 2148 S3, 1981)
- G. **Safety Street Lighting.** Safety street lighting shall be provided by the developer in new subdivisions and in private developments of five (5) acres or more. Developer shall bear all costs except wiring, maintenance and energy. All street lighting improvements shall be installed to the satisfaction of the Electric Superintendent in accordance with the specifications on file in the office of the Electric Superintendent. The amount and intensity of illumination provided for street lighting shall be in accordance with the standards established by the Illuminating Engineering Society, American Standard Association, as approved by the Electric Department.

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CHAPTER 18.82

STREET AND GREENWAY DEDICATIONS

SECTIONS:

18.82.010	Purpose.
18.82.020	Street Dedication Required.
18.82.030	Building Construction Prohibited.
18.82.040	Street Dedication Waived.
18.82.050	Street Dedication Map.
18.82.060	Dedication Required Prior to Final Approval.

SECTION 18.82.010 Purpose.

To provide timely and orderly improvement and enlargement of the City street and greenway system through the dedication of land by property owners upon development of their land.

SECTION 18.82.020 Street Dedication Required.

Land will be dedicated by a property owner for the construction of a street or greenway when:

- A. A development requiring a planning action, partition, or subdivision takes place on the owner's property; and
- B. The development will result in increases in the traffic generated (pedestrian, bicycle, auto) in the area, by some measure; and
- C. The property contains a future road or greenway dedicated on the official map adopted pursuant to Section 18.82.050.
- D. It is assumed that all development requiring planning actions will increase traffic generated in the area unless it can be proven otherwise to the satisfaction of the Planning Commission.
- E. The City may require additional right-of-way on streets which do not meet the Street Standards of Chapter 18.88, Performance Standards Options, or for necessary realignments of intersections or street sections. These do not have to be shown on the official map.

(Ord 2836 S13, 1999)

SECTION 18.82.030 Building Construction Prohibited.

The construction of permanent structures is prohibited in the right-of-way and associated setback areas of a future street or greenway.

SECTION 18.82.040 Street Dedication Waived.

The property owner is not required to dedicate land for the construction of a City street or greenway when it has been proven, to the satisfaction of the Planning Commission, that the planned use will not increase in any way, the automobile, pedestrian or bicycle traffic generated in the area. The owner is still prohibited from building in the right-of-way or associated setback areas of the future street or greenway.

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SECTION 18.82.050 Street Dedication Map.

- A. All future street and greenway dedications are to be shown on the official street dedication map adopted by the City Council.
- B. The Staff Advisor or the Planning Commission may modify the location of a required street or greenway dedication to account for practical difficulties in implementing this ordinance, as long as the general intent of providing safe transportation from one point to another is ensured.

SECTION 18.82.060 Dedication Required Prior to Final Approval.

- A. Dedication of the future right-of-way for a street or greenway is required prior to final action on a partitioning, subdivision, or development requiring a planning action.
- B. If a plat is required for final action, the dedication shall be indicated on the plat as dedicated to the City of Ashland.
- C. If no plat is required, a deed with the dedication described by a registered surveyor shall be granted to the City of Ashland. Said deed shall be provided with adequate title insurance or other assurance necessary to ensure that the title is free of all encumbrances, back taxes or liens.

(Ord. 2228, 1982)

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CHAPTER 18.84

MANUFACTURED HOUSING DEVELOPMENTS

SECTIONS:

18.84.010	Purpose.
18.84.020	General Provisions.
18.84.025	Definitions.
18.84.030	Procedure for Approval.
18.84.040	Setback Requirements.
18.84.050	Design Standards.
18.84.060	Manufactured Housing Standards.
18.84.070	Roadway, Parking and Sidewalk Standards.
18.84.080	Storage and Temporary Occupancy of Manufactured Homes.
18.84.090	Non-Conforming Manufactured Housing Developments.
18.84.100	Special Conditions.

SECTION 18.84.010 Purpose.

The purpose of this chapter is to encourage the most appropriate use of land for manufacturing housing development purposes, to encourage design standards which will create pleasing appearances, to provide sufficient open space for light, air and recreation, to provide adequate access to and parking for manufactured housing sites, and to refer minimum utility service facilities to appropriate City codes.

SECTION 18.84.020 General Provisions.

- A. No person shall establish, operate, manage, maintain, alter or enlarge any manufactured housing development contrary to the provisions of this ordinance.
- B. In addition to the requirements of this chapter, all manufactured housing developments shall conform to the regulations of ORS Chapter 446, together with such administrative rules as may be adopted from time to time, except where such regulations are exceeded by the requirements of this chapter, in which case the more stringent requirements shall apply.
- C. Manufactured housing developments shall be subject to regulations of this chapter and shall be located only on sites approved for use under the provisions of such chapter.
- D. Manufactured housing development may be located or relocated only in R-1-3.5 and R-2 zones.

SECTION 18.84.025 Definitions.

The following terms are defined for the purpose of this Chapter and do not otherwise apply to the Land Use Ordinance:

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- A. **Building Envelope.** An area, within the property boundaries of a lot or space, within which a permitted manufactured housing or structure can be placed.
- B. **City Facility.** A public service or facility provided, owned and controlled by the City.
- C. **Diameter Breast Height.** The outside diameter of the trunk of a tree, measured 4.5 feet above ground level.
- D. **Homeowners Association.** A homeowners association is an organization formed for the maintenance and operation of the common areas of the development. The membership in the association must be automatic with the purchase of a dwelling unit or other property in the planned development. The association's principal source of funds shall be an assessment levied against each dwelling unit or other property, which assessment shall be enforceable as a lien against the property.
- E. **Open Space.** A common area designated on the final plans of the development, permanently set aside for the common use of the residents of the development. The open area may be landscaped and/or left with a natural vegetation cover, and in which area no thoroughfares, parking areas, or improvements other than recreational facilities are located. All developments shall provide a minimum of 5% of the total lot area in Open Space.
- F. **Pedestrian Path.** A graded cleared way, adjacent to the curb at curb level, for individuals who travel on foot.
- G. **Unbuildable Area.** All areas outside of building envelopes and within open space.

SECTION 18.84.030 Procedure for Approval.

A. Outline Plan:

1. Application for subdivision approval under this Chapter shall be accompanied by a proposed Outline Plan. For developments of less than 10 lots, the Outline Plan may be filed concurrently with the Final Plan, as that term is defined in 18.84.030.B.4. However, for developments of 10 lots or more prior Outline Plan approval is mandatory.
2. A Type II procedure, as defined in this Ordinance, shall be used for the approval of the outline plan.
3. Contents. The contents for an outline plan shall be as follows:
 - a. A topographic map showing contour intervals of five feet.
 - b. The proposed land uses and approximate locations of the existing buildings to be retained, the proposed structures on the site, the proposed and existing property lines and easements on the site, and existing buildings, structures, and trees greater than six inches in diameter measured at breast height on the properties adjacent to the site, and all buildings within 160 feet of the site boundaries.
 - c. The locations of all proposed thoroughfares, walkways, and parking facilities.
 - d. Public uses, including schools, parks, playgrounds, open spaces and trails.
 - e. Public or private utilities.
 - f. General areas of cuts and fill.
 - g. The location of natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees.
 - h. The location and direction of all watercourses and areas subject to flooding.
 - i. Lots or areas for the location of the manufactured housing, with building envelopes

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- showing the permissible location of the dwelling unit.
- j. Architectural elevations of proposed structures other than manufactured homes, if any. The elevation should be to scale and should include the approximate dimensions of the proposed structures and all attached exterior hardware for heating and cooling.
 - k. A written statement which will contain an explanation of:
 - i. The character of the proposed development and the manner in which it has been designed to take advantage of the Performance Standards Concept.
 - ii. The proposed manner of financing.
 - iii. The present ownership of all the land included within the development.
 - iv. The method proposed to maintain common open areas, buildings and private thoroughfares.
 - v. The proposed time schedule of the development.
 - vi. The findings of the applicant showing that the development meets the criteria set forth in this Ordinance and the Ashland Comprehensive Plan.
4. The Planning Commission shall approve the outline plan when it finds the following criteria have been met:
- a. That the development meets all applicable ordinance requirements of the City of Ashland.
 - b. That adequate City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.
 - c. That the existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.
 - d. That the development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.
 - e. That there are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.
 - f. That the proposed density meets the base and bonus density standards established under this Chapter.
5. Approval of the Outline Plan.
- a. To the extent allowed by statute, the Planning Commission may extend the public hearing to gather more information.
 - b. The Planning Commission may approve or disapprove the Outline Plan and application or require changes, or impose conditions of approval which it finds necessary to conform with the standards of this ordinance and the purpose of this Chapter. Approval of the Outline Plan and application, and conditions of approval are final to all issues resolved at that time unless appealed.
 - c. After an outline plan, which has had a public hearing, is approved, the developer may then file a final plan in phases or in its entirety. However, a final plan may not be filed until the Council adopts any zone change necessary for the development.
 - d. If an outline plan is phased, 50% of the value of the recreational amenities shall be provided in the first phase and all recreational amenities shall be provided when two-thirds of the units are finished.

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B. Final Plan.

1. Procedure for approval. Type I procedure, as defined in this Title, shall be used for approval of final plans, unless an outline plan has been filed, in which case Type II procedure shall be used, and the criteria for approval of an outline plan shall also be applied.
2. The final plan may be filed in phases as approved on the outline plan.
3. If the final plan or the first phase of the outline plan is not approved within eighteen (18) months from the date of the approval of the outline plan, then the approval of the plan is terminated and void and of no effect whatsoever. Extensions may be granted as a Type I procedure.
4. Contents. The final plan shall contain a scale map or maps and a written document showing the following for the development:
 - a. A topographic map showing contour intervals of five feet.
 - b. Location of all thoroughfares and walks, their widths and nature of their improvements, and whether they are to be public or private.
 - c. Road cross sections and profiles, clearly indicating the locations of final cuts and fills, and road grades.
 - d. The location, layout, and servicing of all off-street parking areas.
 - e. The property boundary lines.
 - f. The individual lot lines of each parcel that are to be created for separate ownership.
 - g. The location of easements for water line, fire hydrants, sewer and storm sewer lines, and the location of the electric, gas, and telephone lines, telephone cable and lighting plans.
 - h. Landscaping and tree planting plans with the location of the existing trees and shrubs which are to be retained, and the method by which they are to be preserved.
 - i. Common open areas and spaces, and the particular uses intended for them.
 - j. Areas proposed to be conveyed, dedicated, reserved or used for parks, scenic ways, playgrounds, schools or public buildings.
 - k. A plan showing the following for each existing or proposed building or structure for all sites except manufactured housing on approved sites and single-family, detached housing which meets the parent zone setbacks:
 - i. Its location on the lot and within the development.
 - ii. Its intended use.
 - iii. The number of dwelling units in each residential building.
 - iv. Elevation drawings of all proposed structures except manufactured homes and single-family, detached residences which meet parent zone setback requirements. The drawings shall be accurate and to scale, including all attached exterior hardware for heating and cooling.
 - l. Manner of financing.
 - m. Development time schedule.
 - n. If individual lots are to be sold in the Planned Unit Development, a final plat, similar to that required in a subdivision section of the Land Use Development Ordinance.
 - o. Final plans for location of water, sewer, drainage, electric and cable T.V. facilities and plans for street improvements and grading or earth-moving improvements.
 - p. The location of all trees over six inches diameter at breast height, which are to be removed by the developer. Such trees are to be tagged with flagging at the time of Final Plan approval.
5. Criteria for Final Plan Approval. Final plan approval shall be granted unless it is found that it fails to substantially conform with the Outline Plan, and conditions, previously approved. Nothing in this provision shall limit reduction in the number of dwelling units or

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increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance with reference to the matters below listed shall be deemed to exist when comparison of the outline plan with the final plan shows that:

- a. The number of dwelling units vary no more than 10% of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.
 - b. The yard depths and distances between main buildings vary no more than 10% of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Title.
 - c. The open spaces vary no more than 10% of that provided on the outline plan.
 - d. The building size does not exceed the building size shown on the outline plan by more than 10%.
 - e. The building elevations and exterior materials are in conformance with the purpose and intent of this Title and the approved outline plan.
 - f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
6. Any substantial amendment to an approved final plan shall follow at Type I procedure and be reviewed in accordance with the above criteria.

SECTION 18.84.040 Setback Requirements.

- A. **Exterior Setbacks.** Manufactured housing sites along the exterior boundary of the court shall be so designed so that any part of a manufactured housing unit shall be set back at least 20 feet from any street or exterior property line.
- B. **Interior Front Yard Setbacks.** There shall be a front yard on each manufactured home lot or space of at least 10 feet.
- C. **Interior Side and Rear Yard Setbacks.** There shall be side or rear yards of at least six feet. There shall be a minimum separation of 12 feet between manufactured housing units.

SECTION 18.84.050 Design Standards.

- A. **Minimum Court Size.** A manufactured housing development shall occupy a site of not less than one acre in size. (Ord 2810, 1998).
- B. **Density.** The maximum density permitted shall be eight manufactured housing units per acre of developed court area. Manufactured housing which is 14 feet wide or less, or which is less than 800 square feet in size will count as .75 units for this calculation.
- C. **Manufactured Housing Sites or Lots.** All manufactured housing sites or lots must be at least 2,000 square feet in size, at least 35 feet wide, and at least 40 feet deep.
- D. **Lot Coverage.** Maximum lot coverage of any individual manufactured housing lot or site shall be 65% in the R-2 zone and 55% in the R-1-3.5 zone. In addition, the general lot coverage requirements of the parent zone shall also be complied with for the entire project

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site.

E. Landscaping.

1. All areas of the development not occupied by paved roadways, pathways, parking areas, or not occupied by other facilities shall be landscaped. Areas which contain significant natural vegetation may be left in a natural state, if approved on the final landscaping plans.
2. Manufactured housing developments located in an R-1-3.5 zone shall have 45% of the entire site landscaped. Developments located in the R-2 zone shall have 35% of the entire site landscaped.

F. Fencing. Fencing shall comply with all fencing requirements as per Section 18.68.010 of this Title.

G. Utilities. Provisions for electric, water and sanitary service shall be made in accordance with established City procedures and law, including number, size, quality and location of fixtures, connections and facilities. Telephone and electric lines shall be placed underground.

H. All developments are required to provide a minimum of 5% of the total lot area in Open Space.

SECTION 18.84.060 Manufactured Housing Standards.

All manufactured housing units located in approved manufactured housing developments shall comply with the following requirements:

A. Manufactured housing units shall be a minimum of 650 square feet in size.

B. Manufactured housing units shall be at least 12 feet wide.

C. Manufactured housing units shall have the Oregon Department of Commerce "insignia of Compliance." The manufactured housing unit shall be inspected by the City's Building Official and occupancy shall be approved only if the Building Official has determined that the manufactured housing unit has a valid insignia of compliance and has not deteriorated beyond an acceptable level of compliance.

D. Manufactured housing units shall be placed on permanent foundations, with wheels and hitches removed, be fully skirted or bermed, and shall have no uncovered open spaces except for vents of sufficient strength to support the loads imposed by the manufactured housing unit, based on accepted engineering design standards, as approved by the Building Official.

E. Manufactured housing units shall be provided with City water, sewer, electricity, telephone and storm drainage, with easements dedicated where necessary.

F. Manufactured housing units shall comply with the thermal envelope requirements for heat loss required by the Oregon State Building Code for single family detached homes.

G. Manufactured housing units shall have a deck or patio area adjacent to the home. The deck or patio shall be constructed of a permanent material and shall be at least 80 square feet in

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size, with a minimum width of eight feet in its least dimension.

- H. Each manufactured housing unit shall have a one parking space located on or adjacent to the unit space. The parking space shall be setback at least 20 feet from the street.
- I. Notwithstanding the above, any manufactured home legally located within the Ashland Urban Growth Boundary prior to July 1, 1990 may be relocated to an approved manufactured home development, subject to a fire and life safety inspection by the Ashland Building official.

SECTION 18.84.070 Roadway, Parking and Sidewalk Standards.

- A. **Street Standards.** Public streets shall comply with the design standards contained in Chapter 18.88.
- B. Private streets shall be a minimum of 20 feet in width, and constructed to the same standards as specified for an alley by the Ashland Public Works Department. A private street may be a dead-end street no more than 300 feet in depth from a higher order road. Adequate turn-around shall be provided according to standards established by the Planning Commission.
- C. **Sidewalk Standards.** Every manufactured housing development shall have a permanent pedestrian walkway at least 48 inches wide connecting all manufactured housing units to public or private streets, common open spaces, recreational areas and commonly-owned buildings and facilities.
- D. **Off-Street Parking Standards.** Each manufactured housing unit shall be provided with one off-street parking space on each manufactured housing site, setback 20 feet from the street. In addition, guest parking facilities of one parking space for each manufactured housing site shall also be provided on the project site, within 200 feet of the units they are intended to serve, either adjacent to the road or in a off street parking lot. Parking space construction, size, landscaping and design requirements shall be according to Chapters 18.72 (Site Review) and 18.92 (Off-Street Parking).

SECTION 18.84.080 Storage and Temporary Occupancy of Manufactured Homes.

- A. A no-charge permit from the Staff Advisor is required for the storage of any manufactured housing unit on the home premises of the owner for any length of time when not used for living purposes; provided, however, that all units so stored shall abide by the yard requirements for accessory buildings in this chapter.
- B. No manufactured housing unit shall be stored on a public street except for temporary maneuvering purposes.
- C. Temporary occupancy of a manufactured housing unit on premises which do not meet the requirements of this chapter for a manufactured housing development, may be permitted for a period not to exceed ninety (90) calendar days upon the granting of a permit by the City Building Official. Such occupancy may only be allowed in conjunction with the construction of the applicant's residence on the site. Said permit shall not be renewable within a six-

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month period beginning at the first date of issuance, except with approval of the Staff Advisor.

SECTION 18.84.090 Non-Conforming Manufactured Housing Developments.

A manufactured housing development and an individual manufactured housing unit utilized for living purposes on the effective date of this ordinance or of amendments thereto, which do not conform to the regulations of this chapter, shall be deemed to be non-conforming and may be continued, subject to the following regulations:

- A. Routine maintenance and repairs may be performed within the manufactured housing development or upon individual manufactured housing units.
- B. No non-conforming manufactured housing development shall be enlarged, remodeled or modernized except in conformance with all requirements of this chapter, except that an area of less than two acres for a development to be enlarged, remodeled or modernized may be approved through the conditional use permit procedure contained in this Title.
- C. No manufactured housing unit shall be located on the site of, or substituted for, a non-conforming manufactured housing unit, the use of which has been discontinued, except within a manufactured housing development holding a certificate of sanitation issued by the Board of Health, State of Oregon, issued prior to the effective date of this chapter. Relocation of existing units within the City Urban Growth Boundary are exempted as provided in Section 18.84.060(l).
- D. If a non-conforming manufactured housing development holding a certificate of sanitation issued by the Board of Health, state of Oregon, ceases operation for a period of six months or more, said development shall be considered abandoned and shall be reinstated only in conformance with the requirements of this chapter.

SECTION 18.84.100 Special Conditions.

- A. For the mitigation of adverse impacts, the City may impose conditions. Restrictions may include, but are not limited to, the following:
 - 1. Require view-obscuring shrubbery, walls or fences.
 - 2. Require retention of specified trees, rocks, water ponds or courses, or other natural features.
- B. No manufactured housing developments may be located within the Ashland Historic District.
- C. No manufactured housing developments may be located, relocated, or increased in size or number of units within any zones designated for commercial use -- C-1, C-1-D, E-1, CM or M-1. (Ord. 2662, 1992; Ord 3036, amended, 08/17/10)

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CHAPTER 18.88

PERFORMANCE STANDARDS OPTIONS

SECTIONS:

- 18.88.010 Purpose and Intent.**
- 18.88.020 Definitions.**
- 18.88.030 Procedure for Approval.**
- 18.88.040 Performance Standards for Residential Developments.**
- 18.88.050 Street Standards.**
- 18.88.060 Parking Standards.**
- 18.88.070 Setbacks.**
- 18.88.080 PSO-Overlay Zone.**
- 18.88.090 Performance Standards Guidelines.**
- 18.88.100 Applicability of Other Sections of the Land Use Development Ordinance.**

SECTION 18.88.010 Purpose and Intent.

The purpose and intent of this Chapter is to allow an option for more flexible design than is permissible under the conventional zoning codes. The design should stress energy efficiency, architectural creativity and innovation, use the natural features of the landscape to their greatest advantage, provide a quality of life equal to or greater than that provided in developments built under the standard zoning codes, be aesthetically pleasing, provide for more efficient land use, and reduce the impact of development on the natural environment and neighborhood.

(Ord. 2228, 1982; Ord. 2276 S2, 1983; Ord. 2356, 1985)

SECTION 18.88.020 Definitions.

The following terms are defined for the purpose of this Chapter and do not otherwise apply to the Land Use Ordinance:

- A. **Block Length.** The distance along a street between the centerline of two intersecting through streets.
- B. **Block Perimeter.** The sum of the block lengths of all sides of a block.
- C. **Building Envelope.** An area, within the property boundaries of a parcel, within which a permitted structure can be placed.
- D. **City Facility.** A public service or facility provided, owned and controlled by the City.
(Ord. 2630 S6, 1991)
- E. **Diameter Breast Height.** The outside diameter of the trunk of a tree, measured four and one-half feet (4 ½) above ground level.
- F. **Homeowners Association.** A homeowners association is an organization formed for the maintenance and operation of the common areas of the development. The membership in the association must be automatic with the purchase of a dwelling unit or other property in the planned development. The association's principal source of funds shall be an

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assessment levied against each dwelling unit or other property, which assessment shall be enforceable as a lien against the property.

- G. **Obstructed Street.** A public street, or a private drive serving greater than three units, or a driveway that has been obstructed by a gate or other barriers designed to restrict access.
- H. **Open Space.** A common area designated on the final plans of the development, permanently set aside for the common use of the members of the homeowners association, which open area may be landscaped and/or left with a natural vegetation cover, and in which area no thoroughfares, parking areas, or improvements other than recreational facilities are located. All developments with a base density of 10 units or greater shall provide a minimum of 5% of the total lot area in Open Space that is not subject to bonus point calculations. Bonus points shall only be awarded to that Open Space area in excess of the 5% required for developments of 10 units or greater. Open Space shall be optional for developments of less than 10 units, unless required by the application of the approval criteria. (Ord. 2630 S6, 1991)
- I. **Pedestrian Path.** A graded cleared way, adjacent to the curb at curb level, for individuals who travel on foot.
- J. **Unbuildable Area.** All areas outside of building envelopes and within open space.
- K. **Street Standards.** All standards under 18.88.050 and all standards in the City of Ashland Street Standards Handbook as adopted in Ordinance 2836 and as amended by Ordinance 2959 [July 01, 2008] are specifically incorporated herein and made a part hereof by this reference. (Ord 2959, 08/01/2008; Ord 2836, amended, 02/02/1999)

SECTION 18.88.030 Procedure for Approval.

A. Outline Plan:

- 1. Application for subdivision approval under this Chapter shall be accompanied by a proposed Outline Plan. For developments of less than 10 lots, the Outline Plan may be filed concurrently with the final Plan, as that term is defined in 18.88.030 B.4. For developments of 10 lots or more prior Outline Plan approval is mandatory. (Ord 2630 S6, 1991)
- 2. A Type II procedure, as defined in this Ordinance, shall be used for the approval of the outline plan.
- 3. Contents. The contents for an outline plan shall be as follows:
 - a. A topographic map showing contour intervals of five (5) feet.
 - b. The proposed land uses and approximate locations of the existing buildings to be retained, the proposed structures on the site, the proposed and existing property lines and easements on the site, and existing buildings, structures, and trees greater than six (6) inches in diameter measured at breast height on the properties adjacent to the site, and all buildings within one hundred sixty (160) feet of the site boundaries.
 - c. The locations of all proposed thoroughfares, walkways, and parking facilities.
 - d. Public uses, including schools, parks, playgrounds, open spaces and trails.
 - e. Public or private utilities.
 - f. General areas of cuts and fill.
 - g. The location of natural features such as rock outcroppings, marshes, wooded areas, and isolated preservable trees.

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- h. The location and direction of all watercourses and areas subject to flooding.
- i. On lots which are to contain detached single-family dwellings, building envelopes shall be included on the outline plan which show the area and maximum height of improvements, including solar access and view protection where required.
- j. Elevation of typical proposed structures. The elevation should be to scale and should include the approximate dimensions of the proposed structures and all attached exterior hardware for heating and cooling.
- k. A written statement which will contain an explanation of:
 - i. The character of the proposed development and the manner in which it has been designed to take advantage of the Performance Standards Concept.
 - ii. The proposed manner of financing.
 - iii. The present ownership of all the land included within the development.
 - iv. The method proposed to maintain common open areas, buildings and private thoroughfares.
 - v. The proposed time schedule of the development.
 - vi. The findings of the applicant showing that the development meets the criteria set forth in this Ordinance and the Ashland Comprehensive Plan.
- 4. The Planning Commission shall approve the outline plan when it finds the following criteria have been met:
 - a. That the development meets all applicable ordinance requirements of the City of Ashland.
 - b. That adequate key City facilities can be provided including water, sewer, paved access to and through the development, electricity, urban storm drainage, police and fire protection and adequate transportation; and that the development will not cause a City facility to operate beyond capacity.
 - c. That the existing and natural features of the land; such as wetlands, floodplain corridors, ponds, large trees, rock outcroppings, etc., have been identified in the plan of the development and significant features have been included in the open space, common areas, and unbuildable areas.
 - d. That the development of the land will not prevent adjacent land from being developed for the uses shown in the Comprehensive Plan.
 - e. That there are adequate provisions for the maintenance of open space and common areas, if required or provided, and that if developments are done in phases that the early phases have the same or higher ratio of amenities as proposed in the entire project.
 - f. That the proposed density meets the base and bonus density standards established under this Chapter.
 - g. The development complies with the Street Standards.(Ord 2836, S2 1999)
- 5. Approval of the Outline Plan.
 - a. To the extent allowed by Statute, the Planning Commission may extend the public hearing to gather more information.
 - b. The Planning Commission may approve or disapprove the outline plan and application or require changes, or impose conditions of approval which it finds necessary to conform with the standards of this ordinance and the purpose of this Chapter. Approval of the Outline Plan and application, and conditions of approval are final to all issues resolved at that time unless appealed.
 - c. After an outline plan, which has had a public hearing, is approved, the developer may then file a final plan in phases or in its entirety. However, a final plan may not be filed until the Council adopts any zone change necessary for the development.
 - d. If an outline plan is phased, fifty (50%) percent of the value of the recreational

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amenities shall be provided in the first phase and all recreational amenities shall be provided when two-thirds (2/3) of the units are finished.

B. Final Plan.

1. Procedure for approval. Type I procedure, as defined in this Title, shall be used for approval of final plans, unless an outline plan has been filed, in which case Type II procedure shall be used, and the criteria for approval of an outline plan shall also be applied.
2. The final plan may be filed in phases as approved on the outline plan.
3. If the final plan or the first phase of the outline plan is not approved within eighteen (18) months from the date of the approval of the outline plan, then the approval of the plan is terminated and void and of no effect whatsoever. Extensions may be granted as a Type I procedure.
4. Contents. The final plan shall contain a scale map or maps and a written document showing the following for the development:
 - a. A topographic map showing contour intervals of five (5) feet.
 - b. Location of all thoroughfares and walks, their widths and nature of their improvements, and whether they are to be public or private.
 - c. Road cross sections and profiles, clearly indicating the locations of final cuts and fills, and road grades.
 - d. The location, layout, and servicing of all off-street parking areas.
 - e. The property boundary lines.
 - f. The individual lot lines of each parcel that are to be created for separate ownership.
 - g. The location of easements for water line, fire hydrants, sewer and storm sewer lines, and the location of the electric, gas, and telephone lines, telephone cable and lighting plans.
 - h. Landscaping and tree planting plans with the location of the existing trees and shrubs which are to be retained, and the method by which they are to be preserved.
 - i. Common open areas and spaces, and the particular uses intended for them.
 - j. Areas proposed to be conveyed, dedicated, reserved or used for parks, scenic ways, playgrounds, schools or public buildings.
 - k. A plan showing the following for each existing or proposed building or structure for all sites except single-family, detached housing which meets the parent zone setbacks:
 - i. Its location on the lot and within the Planned Unit Development.
 - ii. Its intended use.
 - iii. The number of dwelling units in each residential building.
 - iv. On lots which are to contain detached single-family dwellings, building envelopes shall be included on the final plan which show the area and maximum height of improvements, including solar access and view protection constraints where required.
 - l. Elevation drawings of all typical proposed structures except single-family, detached residences which meet parent zone setback requirements. The drawings shall be accurate and to scale, including all attached exterior hardware for heating and cooling.
 - m. Manner of financing.
 - n. Development time schedule.
 - o. If individual lots are to be sold in the Planned Unit Development, a final plat, similar to that required in a subdivision section of the Land Use Development Ordinance.
 - p. Final plans for location of water, sewer, drainage, electric and cable T.V. facilities

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- and plans for street improvements and grading or earth-moving improvements.
- q. The location of all trees over six (6) inches diameter at breast height, which are to be removed by the developer. Such trees are to be tagged with flagging at the time of Final Plan approval.
5. Criteria for Final Plan Approval. Final plan approval shall be granted upon finding of substantial conformance with the outline plan. Nothing in this provision shall limit reduction in the number of dwelling units or increased open space provided that, if this is done for one phase, the number of dwelling units shall not be transferred to another phase, nor the open space reduced below that permitted in the outline plan. This substantial conformance provision is intended solely to facilitate the minor modifications from one planning step to another. Substantial conformance shall exist when comparison of the outline plan with the final plan shows that:
 - a. The number of dwelling units vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall the number of units exceed those permitted in the outline plan.
 - b. The yard depths and distances between main buildings vary no more than ten (10%) percent of those shown on the approved outline plan, but in no case shall these distances be reduced below the minimum established within this Title.
 - c. The open spaces vary no more than ten (10%) percent of that provided on the outline plan.
 - d. The building size does not exceed the building size shown on the outline plan by more than ten (10%) percent.
 - e. The building elevations and exterior materials are in conformance with the purpose and intent of this Title and the approved outline plan.
 - f. That the additional standards which resulted in the awarding of bonus points in the outline plan approval have been included in the final plan with substantial detail to ensure that the performance level committed to in the outline plan will be achieved.
 - g. The development complies with the Street Standards.(Ord 2836, S3 1999)
 6. Any substantial amendment to an approved final plan shall follow a Type I procedure and be reviewed in accordance with the above criteria.
(Ord 2228, 1982; Ord 2276, 1983; Ord 2356, 1985; Ord 2630, 1991)

SECTION 18.88.040 Performance Standards for Residential Developments.

A. Base Densities.

1. The density of the development shall not exceed the density established by this Section. The density shall be computed by dividing the total number of dwelling units by the acreage of the project, including land dedicated to the public. Fractional portions of the final answer, after bonus point calculations, shall not apply towards the total density. Base density for zoning districts within the City of Ashland shall be as follows:

WR and RR zone--1 divided by the minimum lot size expressed in acres, times 0.60 determines the dwelling units per acre.

WR-2	=	0.30 du/acre
WR-2.5	=	0.24 du/acre
WR-5	=	0.12 du/acre
WR-10	=	0.06 du/acre
WR-20	=	0.03 du/acre

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RR-1	=	0.60 du/acre
RR-.5	=	1.2 du/acre
Single Family Zones		
R-1-10	=	2.40 du/acre
R-1-7.5	=	3.60 du/acre
R-1-5	=	4.50 du/acre
R-1-3.5	=	7.2 du/acre
Multi-Family Zones		
R-2	=	13.5 du/acre
R-3	=	20 du/acre

2. All developments with a base density of 10 units or greater shall be required to provide a minimum of 5% of the total lot area in Open Space that is not subject to bonus point calculations. Bonus shall be awarded only to that Open Space area in excess of the 5% required for developments of 10 units or greater. Open Space shall be optional for all developments of less than 10 units.

B. Bonus Point Calculations.

1. The permitted base density shall be increased by the percentage gained through bonus points. In no case shall the density exceed that allowed under the Comprehensive Plan.
2. The maximum bonus permitted shall be 60%. (Ord 2669, 1992)
3. The following bonuses shall be awarded:
 - a. Conservation Housing – 100% of the homes or residential units approved for development, after bonus point calculations, shall meet the minimum requirements for certification as a Earth Advantage home, as approved by the Ashland Conservation Division under the City’ s Earth Advantage program as adopted by resolution 2006-06 maximum 15% bonus. (Ord 2923; S3 2006)
 - b. Provision of common open space.
 1. Purpose. Common open spaces may be provided in the form of natural areas, wetlands, playgrounds, active or passive recreational areas, and similar areas in common ownership. All areas set aside for common space may be counted for base density, unless otherwise excluded by the Land-use Ordinance. However, for the purposes of awarding density bonus points, the Planning Commission shall consider whether or not the common open space is a significant amenity to project residents, and whether project residents will realistically interact with the open space on a day-to-day basis. The purpose of the density bonus for common open space is to permit areas which could otherwise be developed, or sold as individual lots, to be retained in their natural state or to be developed as a recreational amenity. It is not the purpose of this provision to permit density bonuses for incidental open spaces which have no realistic use by project residents on a day-to-day basis.
 2. Standard. Developments of 10 units or greater shall provide 5% of the total development area in Open Space. No bonus points shall be awarded for this Open Space. For developments of less than 10 units which provide more than 2% of the project area for common open space, or for developments of 10 units or greater which provide greater than 5% open space, a 1% bonus shall be awarded for each 1% of the total project area in common open space--maximum 10% bonus.

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- c. Provision of major recreational facilities.
 - 1. Purpose. Points may be awarded for the provision of major recreational facilities such as tennis courts, swimming pools, playgrounds, or similar facilities.
 - 2. Standard. For each percent (1%) of total project cost devoted to recreational facilities, a 6% density bonus may be awarded up to a maximum of 10% bonus. Total project cost shall be defined as the estimated sale price or value of each residential unit times the total number of units in the project. Estimated value shall include the total market value for the structure and land. The cost of the recreational facility shall be prepared by a qualified architect or engineer using current costs of recreational facilities--maximum bonus 10%.
- d. Affordable Housing - for every percent of units that are affordable, an equivalent percentage of density bonus shall be allowed. Affordable Housing bonus shall be for residential units that are affordable for moderate income persons in accord with the standards established by resolution of the Ashland City Council and guaranteed affordable through procedures contained in said resolution. Maximum bonus of 35%.
(Ord 2450 1988; Ord 2630 S6, 1991; Ord 2669, 1992; Ord 2923, amended, 02/07/2006)

SECTION 18.88.050 Street Standards.

All development under this Chapter shall conform to the Street Standards as defined in 18.88.020.K.

The following standards regulate the development of streets and are in addition to the standards contained in the Street Standards Handbook.

- A. **Private Drive.** A private drive is a road in private ownership, not dedicated to the public, which serves three or less units. No curbs or sidewalks are required for a private drive. On-street parking is prohibited on private drives. The private drive standard is as follows:

3	Units 15 feet with 20 feet dedicated width
2	Units 15 feet with 20 feet dedicated width
1	Unit 12 feet with 15 feet dedicated width

- B. **Dedicated Public Streets Required.** All roads which serve four units or greater, and which are in an R-1, RR and WR zone, must be dedicated to the public and shall be developed to the Street Standards of this section.
- C. **Dead End.** No dead end road shall exceed 500 feet in length, not including the turnaround. Dead end roads must terminate in an improved turnaround as defined in the Performance Standards guidelines adopted pursuant to Section 18.88.090.
- D. **Obstructed Streets.** Creating an obstructed street is prohibited.
- E. **Street Grade.** Street grades measured at the street centerline for dedicated streets and flag drives shall be as follows:
 - 1. Street and private drive grades in Performance Standards Developments shall not exceed a maximum grade of 15%. No variance may be granted to this section for public streets. Variances may be granted for private drives for grades in excess of 15% but not greater than 18% for no more than 200'. Such variances shall be required to meet all of the criteria for approval as found in 18.100.

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Private drives serving structures greater than 24' in height, as defined in 18.08.290, shall provide a Fire Work Area of 20' by 40' within 50' of the structure. The Fire Work Area requirement shall be waived if the structure served by the drive has an approved automatic sprinkler system installed.

Private drives and work areas shall be deemed Fire Lanes and subject to all requirements thereof.

When required by the Oregon Fire Code, private drives greater than 150 feet in length shall provide a turnaround as defined in the Performance Standards Guidelines as provided in 18.88.090. The Staff Advisor, in coordination with the Fire Code Official, may extend the distance of the turnaround requirement up to a maximum of 250 feet in length as allowed by Oregon Fire Code access exemptions.

- F. **Exception to Street Standards.** An exception to the Street Standards is not subject to the Variance requirements of section 18.100 and may be granted with respect to the Street Standards in 18.88.050 if all of the following circumstances are found to exist:
- A. There is demonstrable difficulty in meeting the specific requirements of this chapter due to a unique or unusual aspect of the site or proposed use of the site.
 - B. The variance will result in equal or superior transportation facilities and connectivity;
 - C. The variance is the minimum necessary to alleviate the difficulty; and
 - D. The variance is consistent with the stated Purpose and Intent of the Performance Standards Options Chapter. (Ord 2951, amended, 07/01/2008; Ord 2836, amended, 02/02/1999)

SECTION 18.88.060 Parking Standards.

Parking standards shall be as follows:

- A. **Off-Street Parking.** Off-street parking shall be as provided in Chapter 18.92 of the Ashland Land Use Ordinance.
- B. **On-Street Parking Required.** At least one on-street parking space per unit shall be provided in addition to the off-street parking requirements for all developments in an R-1 zone, and all developments in R-2 and R-3 zones that create or improve public streets. On-street parking spaces shall be immediately adjacent to the public right-of-way on publicly or association-owned land and be directly accessible from public right-of-way streets. On-street parking spaces shall be located within 200 feet of the dwelling which it is intended to serve.
(Ord 2484 S5, 1988)
- C. **On-Street Parking Standards.** On-street public parking may be provided by either the minimum criteria established in the Performance Standards guidelines under Section 18.88.090 or parallel to curb side. Curb side stalls shall be eight feet in width and 24 feet in length and shall not be permitted in front of driveways or fire hydrants.
- D. **Signing of Streets.** The installation of "No Parking" signs regulating parking in the public right-of-way and any other signs related to the regulation of on-street parking shall be consistent with the Street Standards in 18.88.050, and shall be consistent with the

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respective Planning Approval. (Ord 2836 S5, 1999)

SECTION 18.88.070 Setbacks.

- A. Front yard setbacks shall follow the requirements of the underlying district.
- B. Setbacks along the perimeter of the development shall have the same setbacks as required in the parent zone.
- C. Maximum heights shall be the same as required in the parent zone.
- D. One-half of the building height at the wall closest to the adjacent building shall be required as the minimum width between buildings, except within non-residential zoning districts including C-1, C-1-D, E-1, CM, and M-1.
- E. Solar Access Setback. Solar access shall be provided as required in Section 18.70 except within the C-1-D and CM zoning districts.
- F. Any single-family structure not shown on the plan must meet the setback requirements established in the building envelope on the outline plan. (Ord 3036, amended, 08/17/10)

SECTION 18.88.080 PSO-Overlay.

- A. The purpose of the PSO-overlay is to distinguish between those areas which have been largely developed under the subdivision code, and those areas which, due to the undeveloped nature of the property, topography, vegetation, or natural hazards, are more suitable for development under Performance Standards.
- B. All developments, other than partitionings, which involve the division of land, or development of individual living units, in the PSO-overlay areas, shall be processed under this Chapter of the Land Use Ordinance. The minimum number of dwelling units for a Performance Standards Subdivision within residential zoning districts shall be three.
- C. In a PSO-overlay area, the granting of the application shall be considered an outright permitted use, subject to review by the Commission for compliance with the standards set forth in this Ordinance and the guidelines adopted by the Council.
- D. If a parcel is not in a PSO-overlay area, then development under this Chapter may only be approved if one or more of the following conditions exist:
 - 1. The parcel is larger than two acres and is greater than 200 feet in average width; or
 - 2. That development under this Chapter is necessary to protect the environment and the neighborhood from degradation which would occur from development to the maximum density allowed under subdivision standards, or would be equal in its aesthetic and environmental impact; or
 - 3. The property is zoned R-2, R-3 or CM.

(Ord 3036, amended, 08/18/10, Ord 3054, amended 12/16/2011)

SECTION 18.88.090 Performance Standards Guidelines.

- A. The Council may adopt guidelines for Performance Standards developments by resolution.

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These guidelines may contain:

1. Minimum standards for Performance Standards developments including (a) energy and water efficient housing standards; (b) turn-around and other street standards; and (c) minimum landscaping and design standards.
 2. Methods of achieving bonuses recommended by the Council.
 3. Additional standards and recommendations regarding project and unit design and layout, landscaping, street furniture, and other aesthetic considerations.
 4. Interpretations of the intent and purpose of this Chapter, applied to specific examples.
 5. Other informational or educational materials the Council deems advisable.
- B. Before the Council may adopt or amend the Guidelines, a Type II public hearing must be held by the Commission, and its recommendations and a summary of the hearing forwarded to the Council for its consideration.

SECTION 18.88.100 Applicability of Other Sections of the Land Use Development Ordinance.

Developments exercising the Performance Standards option shall be required to meet all other applicable sections of the Land Use Development Ordinance except for minimum lot size, lot width, lot depth and setback requirements, and except as otherwise provided in this Chapter. All public improvements and commonly owned areas in a Performance Standards development shall follow the same procedure as a subdivision for bonding. (Ord 2356, 1985; Ord 2484 S4, 1988; Ord 2630, 1991)

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CHAPTER 18.92

PARKING, ACCESS AND CIRCULATION

SECTIONS:

- 18.92.010 Purpose.
- 18.92.020 Applicability.
- 18.92.030 Automobile Parking Spaces Required.
- 18.92.040 Disabled Person Parking Places.
- 18.92.050 Parking Management Strategies.
- 18.92.060 Bicycle Parking.
- 18.92.070 Variances for Commercial Buildings in the Historic District.
- 18.92.080 Parking, Access and Circulation Design Requirements.
- 18.92.090 Pedestrian Access and Circulation.
- 18.92.100 Construction.
- 18.92.110 Alterations and Enlargements.
- 18.92.120 Availability of Facilities.

SECTION 18.92.010 Purpose.

The purpose of this chapter is to provide standards for development of vehicle and bicycle parking, and to ensure developments provide safe and effective access and circulation for pedestrians, bicyclists and vehicles. (Ord 3054, amended 12/16/2011)

SECTION 18.92.020 Applicability.

In all districts, except those specifically exempted, whenever any building is erected or enlarged, parking or access is reconfigured, or the use is changed, parking, access and circulation shall be provided as set forth in this chapter. The City may require a study prepared by a qualified professional to determine offsets in parking demand, access, circulation and other transportation impacts. (Ord 3054, amended 12/16/2011)

SECTION 18.92.030 Automobile Parking Spaces Required.

Uses and standards are as follows:

A. **Residential Uses.** For residential uses the following automobile parking spaces are required.

1. Single family dwellings.

Two spaces for the primary dwelling unit and the following for accessory residential units:

- a. Studio units or 1-bedroom units less than 500 sq. ft. -- 1 space/unit.
- b. 1-bedroom units 500 sq. ft. or larger -- 1.50 spaces/unit.
- c. 2-bedroom units --1.75 spaces/unit.
- d. 3-bedroom or greater units -- 2.00 spaces/unit.

2. Multi-family dwellings.

- a. Studio units or 1-bedroom units less than 500 sq. ft. -- 1 space/unit.
- b. 1-bedroom units 500 sq. ft. or larger -- 1.50 spaces/unit.

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- c. 2-bedroom units -- 1.75 spaces/unit.
 - d. 3-bedroom or greater units -- 2.00 spaces/unit.
 - e. Retirement complexes for seniors 55-years or greater -- One space per unit.
3. Clubs, fraternity and sorority houses, rooming and boarding houses, dormitories.
Two spaces for each three guest rooms; in dormitories, 100 square feet shall be equivalent to a guest room.
 4. Hotels and motels.
One space for each guest room, plus one space for the owner or manager.
 5. Manufactured housing developments.
Parking requirements are as established in Chapter 18.84.
 6. Performance Standards Developments.
Parking requirements are as established in Chapter 18.88.
- B. Commercial Uses.** For commercial uses the following automobile parking spaces are required.
1. Auto, boat or trailer sales, retail nurseries and other open-space uses.
One space per 1,000 square feet of the first 10,000 square feet of gross land area; plus one space per 5,000 square feet for the excess over 10,000 square feet of gross land area; and one per two employees.
 2. Bowling Alleys.
Three spaces per alley, plus additional spaces for auxiliary activities set forth in this section.
 3. Business, general retail, person services.
General - one space for 350 square feet of gross floor area. Furniture and appliances - one space per 750 square feet of gross floor area.
 4. Chapels and mortuaries.
One space per four fixed seats in the main chapel.
 5. Offices.
Medical and dental - one space per 350 square feet of gross floor area. General - one space per 500 square feet of gross floor area.
 6. Restaurants, bars, ice cream parlors and similar uses.
One space per four seats or one space per 100 sq. ft. of gross leasable floor area, whichever is less.
 7. Skating rinks.
One space per 350 sq. ft. of gross building area.
 8. Theaters, auditoriums, stadiums, gymnasiums and similar uses.
One space per four seats. (Ord 3034, amended, 08/17/10)
- C. Industrial Uses.** For industrial uses the following automobile parking spaces are required.
1. Industrial and Warehousing uses.
One space per 1,000 square feet of gross floor area or for each two employees, whichever is less, plus one space per company vehicle.
 2. Public utilities (gas, water, telephone, etc.), not including business offices.
One space per two employees on the largest shift, plus one space per company vehicle; a minimum of two spaces is required. (Ord 3034, amended, 08/17/10)
- D. Institutional and Public Uses.** For institutional and public uses the following automobile parking spaces are required.
1. Child care centers having 13 or more children.
One space per two employees; a minimum of two spaces is required.

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2. Churches.
One space per four seats.
3. Golf courses, except miniature.
Eight spaces per hole, plus additional spaces for auxiliary uses set forth in this section.
Miniature golf courses -four spaces per hole.
4. Hospitals.
Two spaces per patient bed.
5. Nursing and convalescent homes.
One space per three patient beds.
6. Rest homes, homes for the aged, or assisted living.
One space per two patient beds or one space per apartment unit.
7. Schools, elementary and junior high.
One and one-half space per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater.
8. High schools.
One and one-half spaces per classroom, plus one space per 10 students the school is designed to accommodate, or the requirements for public assembly as set forth herein, whichever is greater.
9. Colleges, universities and trade schools.
One and one-half spaces per classroom, plus one space per five students the school is designed to accommodate, plus requirements for on-campus student housing.

E. **Unspecified Uses.** Where automobile parking requirements for any use are not specifically defined in this section, such requirements shall be determined by the Staff Advisor based upon the most comparable use specified in this section, and other available data.

F. **Maximum Allowable Number of Automobile Parking Spaces.** The number of spaces provided by any particular use in ground surface lots shall not exceed the required number of spaces provided by this ordinance by more than 10%. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, or under-structure parking, or in multi-level parking above or below surface lots, shall not apply towards the maximum number of allowable spaces.

SECTION 18.92.040 Disabled Person Parking Places.

The total number of disabled person parking spaces shall comply with the following:

Total in Parking Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

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One in every eight accessible spaces, but not less than one, must be van accessible. A van accessible parking space is required to be at least nine feet wide and have an adjacent access aisle that is at least eight feet wide. Required Disabled Person Parking spaces shall be designed in accord with all requirements of the State of Oregon, including minimum widths, adjacent aisles, and permanent markings. Disabled Person Parking space designs are included at the end of this chapter. (Ord 3054, amended 12/16/2011)

SECTION 18.92.050 Parking Management Strategies.

The amount of required off-street parking may be reduced up to 50% through the application of the following credits.

- A. **On-Street Parking Credit.** The amount of off-street parking required shall be reduced by the following credit provided for on-street parking: one off-street parking space credit for every one on-street parking space.
1. **Dimensions.** On-street parking shall follow the established configuration of existing on-street parking, except that 45 degree diagonal parking may be allowed with the approval of the Public Works Director, taking into account traffic flows and street design, with the parking spaces designed in accord with the standards on file with the Public Works Department. The following shall constitute an on-street parking space:
 - a. Parallel parking, each 22 feet of uninterrupted curb.
 - b. 45 degree diagonal, each 12 feet of uninterrupted curb.
 2. **Location.**
 - a. Curb space must be contiguous to the lot which contains the use which requires the parking.
 - b. Parking spaces may not be counted that are within 20 feet measured along the curb of any corner or intersection of an alley or street, nor any other parking configuration that violates any law or standard of the City or State.
 - c. Parking spaces located on arterials and collectors may only receive credit if the arterial or collector is greater in width than the minimums established by the Street Standards in Chapter 18.88, Performance Standards Options. (Ord 2836 S14, 1999)
 - d. Parking spaces may not be counted that are within 200 feet of a C-1-D or SO zone.
 3. **Availability.** On-street parking spaces credited for a specific use shall not be used exclusively by that use, but shall be available for general public use at all times. No signage or actions limiting general public use of on-street spaces shall be permitted.
- B. **Alternative Vehicle Parking.** Alternative vehicle parking facilities may be substituted for up to 25 percent of the required parking space on site.
1. **Motorcycle or scooter parking.** One off-street parking space credit for four motorcycle or scooter parking spaces.
 2. **Bicycle parking.** One off-street parking space credit for five additional, non-required bicycle parking spaces.
- C. **Mixed Uses.** In the event that several users occupy a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for the several uses computed separately unless it can be shown that the peak parking demands are offset. In such case, the mixed-use credit shall reduce the off-street parking requirement by a percentage equal to the reduced parking demand.
- D. **Joint Use of Facilities.** Required parking facilities of 2 or more uses, structures, or parcels

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of land may be satisfied by the same parking facilities used jointly, to the extent that it can be shown by the owners or operators that the need for the facilities does not materially overlap (e.g., uses primarily of a daytime vs. nighttime nature) and provided that such right of joint use is evidenced by a deed, lease, contract, or similar written instrument establishing such joint use.

- E. **Shared Parking.** One off-street parking space credit for every space constructed in designated off-site shared parking areas, or through payment of in-lieu-of-parking fees for a common parking.
- F. **TDM Plan Credit.** Through implementation of an individual Transportation Demand Management (TDM) plan that demonstrates a reduction of long term parking demand by a percentage equal to the credit requested.
- G. **Transit Facilities Credit.** Sites where at least 20 spaces are required, and where at least one lot line abuts a street with transit service may substitute transit-supportive plazas for required parking as follows.
 - 1. Pedestrian and transit supportive plazas may be substituted for up to ten percent of the required parking spaces on site.
 - 2. A street with transit service shall have a minimum of 30-minute peak period transit service frequency.
 - 3. Existing parking areas may be converted to take advantage of these provisions.
 - 4. The plaza must be adjacent to and visible from the transit street. If there is a bus stop along the site's frontage, the plaza must be adjacent to the bus stop.
 - 5. The plaza must be at least 300 square feet in area and be shaped so that a ten foot by ten foot square will fit entirely in the plaza.
 - 6. The plaza must include all of the following elements:
 - a. A plaza that is open to the public. The owner must record a public access easement that allows public access to the plaza;
 - b. A bench or other sitting area with at least five linear feet of seating;
 - c. A shelter or other weather protection. The shelter must cover at least 20 square feet and the plaza must be landscaped. This landscaping is in addition to any other landscaping or screening required for parking areas by the Code.

(Ord 3054, amended 12/16/2011)

SECTION 18.92.060 Bicycle Parking.

- A. All uses, with the exception of detached single-family residences and uses in the C-1-D zone, shall provide a minimum of two sheltered bike parking spaces.
- B. Every residential use of two units or more per structure, and not containing a garage, shall provide bicycle parking spaces as follows:

Multi-Family Residential: One sheltered space per studio and 1-bedroom unit
1.5 sheltered spaces per 2-bedroom unit
2.0 sheltered spaces per 3-bedroom unit

Senior Housing: One sheltered space per 8 units (*80% of the occupants are 55 or older*)

- C. In addition, all uses which require off street parking, except as specifically noted, shall

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provide one bicycle parking space for every 5 required auto parking spaces. Fractional spaces shall be rounded up to the next whole space. Fifty percent of the bicycle parking spaces required shall be sheltered from the weather. All spaces shall be located in proximity to the uses they are intended to serve. (Ord 2697 S1, 1993)

- D. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every five auto parking spaces.
- E. Elementary, Junior High, Middle and High Schools shall provide one sheltered bicycle parking space for every five students.
- F. Colleges, universities, and trade schools shall provide one bicycle parking space for every five required auto parking spaces, of which one half is to be sheltered.
- G. No bicycle parking spaces required by this standard shall be rented or leased, however, a refundable deposit fee may be charged. This does not preclude a bike parking rental business.
- H. The required bicycle parking facilities shall be constructed when an existing residential building or dwelling is altered or enlarged by the addition or creation of dwelling units, or when a non-residential use is intensified by the addition of floor space, seating capacity, or change in use.
- I. Bicycle Parking Design Standards.
 - 1. The salient concern is that bicycle parking be visible and convenient to cyclists and that it provides sufficient security from theft and damage.
 - 2. Bicycle parking requirements can be met in any of the following ways:
 - a. Providing a bicycle storage room, bicycle lockers, or racks inside the building.
 - b. Providing bicycle lockers or racks in an accessory parking structure, underneath an awning or marquee, or outside the main building.
 - c. Providing bicycle racks on the public right of way. This must be approved by City of Ashland Public Works Department.
 - d. Providing secure storage space inside the building.
 - 3. All required exterior bicycle parking shall be located on site within 50 feet of well-used entrances and not farther from the entrance than the closest motor vehicle parking space. Bicycle parking shall have direct access to both the public right-of-way and to the main entrance of the principal use. For facilities with multiple buildings, building entrances or parking lots (such as a college), exterior bicycle parking shall be located in areas of greatest use and convenience for bicyclists.
 - 4. Required bicycle parking spaces located out of doors shall be visible enough to provide security. Lighting shall be provided in a bicycle parking area so that all facilities are thoroughly illuminated and visible from adjacent walkways or motor vehicle parking lots during all hours of use. Bicycle parking shall be at least as well lit as automobile parking.
 - 5. An aisle for bicycle maneuvering shall be provided and maintained between each row of bicycle parking. Bicycle parking shall be designed in accord with the illustrations used for the implementation of this chapter.
 - 6. Each required bicycle parking space shall be accessible without moving another bicycle.
 - 7. Areas set aside for required bicycle parking shall be clearly marked and reserved for bicycle parking only.
 - 8. Parking spaces configured as indicated in the figure at the end of this chapter meet all

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requirements of this chapter and is the preferred design. Commercial bike lockers are acceptable according to manufacturer's specifications. A bicycle parking space located inside of a building for employee bike parking shall be a minimum of six feet long by 3 feet wide by 4 feet high, unless adequate room is provided to allow configuration as indicated in the figure at the end of this chapter.

9. Sheltered parking shall mean protected from all precipitation and must include the minimum protection coverages shown in the figure at the end of this chapter.
10. Bicycle parking shall be located to minimize the possibility of accidental damage to either bicycles or racks. Where needed, barriers shall be installed.
11. Bicycle parking shall not impede or create a hazard to pedestrians. They shall not be located so as to violate vision clearance standards. Bicycle parking facilities should be harmonious with their environment both in color and design. Facilities should be incorporated whenever possible into building design or street furniture.

J. Bicycle Parking Rack Standards.

1. All required bicycle parking racks installed shall meet the individual rack specifications shown in the figure at the end of this chapter. Single and multiple rack installations shall conform with the minimum clearance standards shown in the figures at the end of this chapter. Alternatives to the above standard may be approved after review by the Transportation Commission and approval by the Staff Advisor. Alternatives shall conform with all other applicable standards of this section. Bicycle parking racks or lockers shall be anchored securely. (Ord 3054, amended 12/16/2011)
2. The intent of this Subsection is to ensure that required bicycle racks are designed so that bicycles may be securely locked to them without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.
 - a. Bicycle racks shall hold bicycles securely by means of the frame. The frame shall be supported so that the bicycle cannot be pushed or fall to one side in a manner that will damage the wheels.
 - b. Bicycle racks shall accommodate:
 - i. Locking the frame and both wheels to the rack with a high-security U-shaped shackle lock, if the bicyclists removes the front wheel; and
 - ii. Locking the frame and one wheel to the rack with a high-security U-shaped shackle lock, if the bicyclists leaves both wheels on the bicycle; and
 - iii. Locking the frame and both wheels to the rack with a chain or cable not longer than 6 feet without removal of the front wheel.
 - c. Paving and Surfacing. Outdoor bicycle parking facilities shall be surfaced in the same manner as the automobile parking area or with a minimum of two inch thickness of hard surfacing (i.e., asphalt, concrete, pavers, or similar material) and shall be relatively level. This surface will be maintained in a smooth, durable, and well-drained condition.

SECTION 18.92.070 Variances for Commercial Buildings in the Historic District.

In order to preserve existing structures within the Ashland Historic District, while permitting the redevelopment of property to its highest commercial use, a variance of up to 50% of the required automobile parking may be granted to commercial uses within the Ashland Historic District as a Type I Variance. It is the intent of this clause to provide as much off-street parking as practical while preserving existing structures and allowing them to develop to their full commercial potential. Additionally, to identify redevelopment of existing commercial and residential buildings for commercial use within the Ashland Historic District as an exceptional

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circumstance and unusual hardship for the purposes of granting a variance.

SECTION 18.92.080 Parking, Access and Circulation Design Requirements.

A. Parking Location.

1. Except for single and two-family dwellings, required automobile parking facilities may be located on another parcel of land, provided said parcel is within 200 feet of the use it is intended to serve. The distance from the parking lot to the use shall be measured in walking distance from the nearest parking space to an access to the building housing the use, along a sidewalk or other pedestrian path separated from street traffic. Such right to use the off-site parking must be evidenced by a deed, lease, easement, or similar written instrument establishing such use, for the duration of the use.
2. Except as allowed in the subsection below, automobile parking shall not be located in a required front and side yard setback area abutting a public street, except alleys.
3. In all residential zones, all off-street parking of automobiles, trucks, trailers and recreational vehicles in the front yard shall be limited to a contiguous area which is no more than 25% of the area of the front yard, or a contiguous area 25 feet wide and the depth of the front yard, whichever is greater. Since parking in violation of this section is occasional in nature, and is incidental to the primary use of the site, no vested rights are deemed to exist and violations of this section are not subject to the protection of the nonconforming use sections of this ordinance. However, a 24-hour warning notice of violation shall be provided prior to the issuance of a citation to appear in Municipal Court, and it shall be rebuttably presumed that the vehicle was parked with permission of the person in control of the property. Subsequent violations shall not require a warning notice.

B. Parking Area Design. Required parking areas shall be designed in accordance with the following standards and dimensions.

1. Parking spaces shall be a minimum of 9 x 18 feet.
2. Up to 50% of the total automobile parking spaces in a parking lot may be designated for compact cars. Minimum dimensions for compact spaces shall be 8 x 16 feet. Such spaces shall be signed or the space painted with the words "Compact Car Only."
3. Parking spaces shall have a back-up maneuvering space no less than twenty-two (22) feet, except where parking is angled, and which does not necessitate moving of other vehicles.
4. Parking lots with 50 spaces or more shall be divided into separate areas. Parking areas may be divided into separate areas by a building or group of buildings, landscape areas with walkways at least 10 feet in width, plazas, streets or driveways with street-like features. Street-like features, for the purpose of this section, means a raised sidewalk of at least five feet in width, six-inch curb, accessible curb ramps, street trees in planters or tree wells and pedestrian-oriented lighting.
5. Parking areas shall be designed to minimize the adverse environmental and microclimatic impacts of surface parking through design and material selection. Parking areas of more than seven parking spaces shall meet the following standards.
 - a. Use at least one of the following strategies for the surface parking area, or put 50% of parking underground.
 - i. Use light colored paving materials with a high solar reflectance (Solar Reflective Index (SRI) of at least 29) to reduce heat absorption for a minimum of 50% of the parking area surface.

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- ii. Provide porous solid surfacing or an open grid pavement system that is at least 50% pervious for a minimum of 50% of the parking area surface.
- iii. Provide at least 50% shade from tree canopy over the parking area surface within five years of project occupancy.
- iv. Provide at least 50% shade from solar energy generating carports, canopies or trellis structures over the parking area surface.
- b. Design parking lots and other hard surface areas in a way that captures and treats runoff with landscaped medians and swales.

C. **Vehicular Access and Circulation.** The intent of this section is to manage access to land uses and on-site circulation, and to preserve the transportation system in terms of safety, capacity and function.

1. Applicability. This section applies to all public streets within the City of Ashland and to all properties that abut these streets. The standards apply when developments are subject to a planning action (e.g. Site Review, Conditional Use Permit, Land Partition, Performance Standards Subdivision).
2. Site Circulation. New development shall be required to provide a circulation system that accommodates expected traffic on the site. All on-site circulation systems shall incorporate street-like features as described in Section 18.92.090.A.3.c. Pedestrian connections on the site, including connections through large sites, and connections between sites and adjacent sidewalks must conform to the provisions of Section 18.92.090.
3. Intersection and Driveway Separation. The distance from a street intersection to a driveway, or from a driveway to another driveway shall meet the minimum spacing requirements for the street's classification in the Ashland Transportation System Plan (TSP).
 - a. In no case shall driveways be closer than 24 feet as measured from the bottom of the existing or proposed apron wings of the driveway approach.
 - b. Any partitioning or subdivision of property located in an R-2, R-3, C-1, E-1, CM or M-1 zone shall meet the controlled access standards set forth below. If applicable, cross access easements shall be required so that access to all properties created by the land division can be made from one or more points.
 - c. Street and driveway access points in an R-2, R-3, C-1, E-1 or M-1 zone shall be limited to the following:
 1. Distance between driveways.
 - On arterial streets - 100 feet;
 - on collector streets - 75 feet;
 - on residential streets - 50 feet.
 2. Distance from intersections.
 - On arterial streets - 100 feet;
 - on collector streets - 50 feet;
 - on residential streets - 35 feet.
 - d. Street and driveway access points in the CM zone are subject to the requirements of the Croman Mill District Standards. (Ord 3036, added, 08/17/2010)
 - e. Access Requirements for Multi-family Developments.
 - i. All multi-family developments which will have automobile trip generation in excess of 250 vehicle trips per day shall provide at least two driveway access points to the development. Trip generation shall be determined by the methods established by the Institute of Transportation Engineers.
 - ii. Creating an obstructed street as defined in Section 18.88.020.G is prohibited.

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4. Shared Use of Driveways and Curb Cuts.

- a. Plans submitted for developments subject to a planning action shall indicate how driveway intersections with streets have been minimized through the use of shared driveways and shall indicate all necessary access easements. Where necessary from traffic safety and access management purposes, the City may require joint access and/or shared driveways in the following situations.
 - i. For shared parking areas;
 - ii. For adjacent developments, where access onto an arterial is limited; and
 - iii. For multi-family developments, and developments on multiple lots.
- b. Developments subject to a planning action shall remove all curb cuts and driveway approaches not shown to be necessary for existing improvements or the proposed development. Cuts and approaches shall be replaced with standard curb, gutter or sidewalk as appropriate. All replacement shall be done under permit of the Engineering Division.
- c. If the site is served by a shared access or alley, access for motor vehicles must be from the shared access or alley and not from the street frontage.

D. Driveways and Turn-Around Design. Driveways and turn-arounds providing access to parking areas shall conform to the following provisions:

1. A driveway for a single dwelling shall have a minimum width of nine feet, and a shared driveway serving two units shall have a width of 12 feet.
2. Parking areas of more than seven parking spaces per lot shall be provided with adequate aisles or turn-around areas so that all vehicles may enter the street in a forward manner.
3. Parking areas of more than seven parking spaces shall be served by a driveway 20 feet in width and constructed to facilitate the flow of traffic on or off the site, with due regard to pedestrian and vehicle safety, and shall be clearly and permanently marked and defined. Parking areas of seven spaces or less shall be served by a driveway 12 feet in width.
4. Vertical Clearances. Driveways, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13'6" for their entire length and width.
5. Vision Clearance. No obstructions may be placed in the vision clearance area except as set forth in Section 18.68.020.

E. Parking and Access Construction. The development and maintenance as provided below, shall apply in all cases, except single-family dwellings.

1. Paving. All required parking areas, aisles, turn-arounds and driveways shall be paved with concrete, asphaltic, pervious paving, or comparable surfacing, constructed to standards on file in the office of the City Engineer.
2. Drainage. All required parking areas, aisles and turn-arounds shall have provisions made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way, and abutting private property.
3. Driveway approaches. Approaches shall be paved with concrete surfacing constructed to standards on file in the office of the City Engineer.
4. Marking. Parking lots of more than seven spaces shall have all spaces permanently and clearly marked.
5. Wheel stops. Wheel stops shall be a minimum of four inches in height and width and six feet in length. They shall be firmly attached to the ground and so constructed as to withstand normal wear. Wheel stops shall be provided where appropriate for all spaces abutting property lines, buildings, landscaping, and no vehicle shall overhang a public

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right-of-way.

6. Walls and Hedges.

a. Where parking abuts upon a street, a decorative masonry wall or evergreen hedge screen of 30-42 inches in height and a minimum of 12" in width shall be established parallel to and not nearer than two feet from the right-of-way line. Screen planting shall be of such size and number to provide the required screening within 12 months after installation. The area between the wall or hedge and street line shall be landscaped. All vegetation shall be adequately maintained by a permanent irrigation system, and said wall or hedge shall be maintained in good condition. The required wall or screening shall be designed to allow for free access to the site and sidewalk by pedestrians.

b. In all zones, except single-family zones, where parking facilities or driveways are located adjacent to residential or agricultural zones, school yards, or like institutions, a sight-obscuring fence, wall, or evergreen hedge not less than five feet, nor more than six feet high shall be provided on the property line as measured from the high grade side. Said wall, fence or hedge shall be reduced to 30 inches within required setback area, or within 10 feet of street property lines, and shall be maintained in good condition. Screen plantings shall be of such size and number to provide the required screening within 12 months after installation. Adequate provisions shall be made to protect walls, fences or plant materials from being damaged by vehicles using said parking areas.

7. Landscaping. In all zones, all parking facilities shall include landscaping to cover not less than 7% of the area devoted to outdoor parking facilities, including the landscaping required in subdivision 6(a) above. Said landscaping shall be uniformly distributed throughout the parking area, be provided with irrigation facilities and protective curbs or raised wood headers. It may consist of trees, plus shrubs, ground cover or related material. A minimum of one tree per seven parking spaces is required.

8. Lighting of parking areas within 100 feet of property in residential zones shall be directed into or on the site and away from property lines such that the light element shall not be directly visible from abutting residential property. (Ord 2951, amended, 07/01/2008)

(Ord 3054, amended 12/16/2011)

SECTION 18.92.090 Pedestrian Access and Circulation.

A. **Site Layout and Design.** To ensure safe, direct, and convenient pedestrian circulation, all developments, except single-family dwellings on individual lots and accessory uses and structures, shall provide a continuous walkway system. The walkway system shall be based on the standards in subsections 1-4, below:

1. Continuous Walkway System. Extend the walkway system throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent sidewalks, trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property for this purpose.

2. Safe, Direct, and Convenient. Provide safe, reasonably direct, and convenient walkway connections between primary building entrances and all adjacent streets, based on the following definitions:

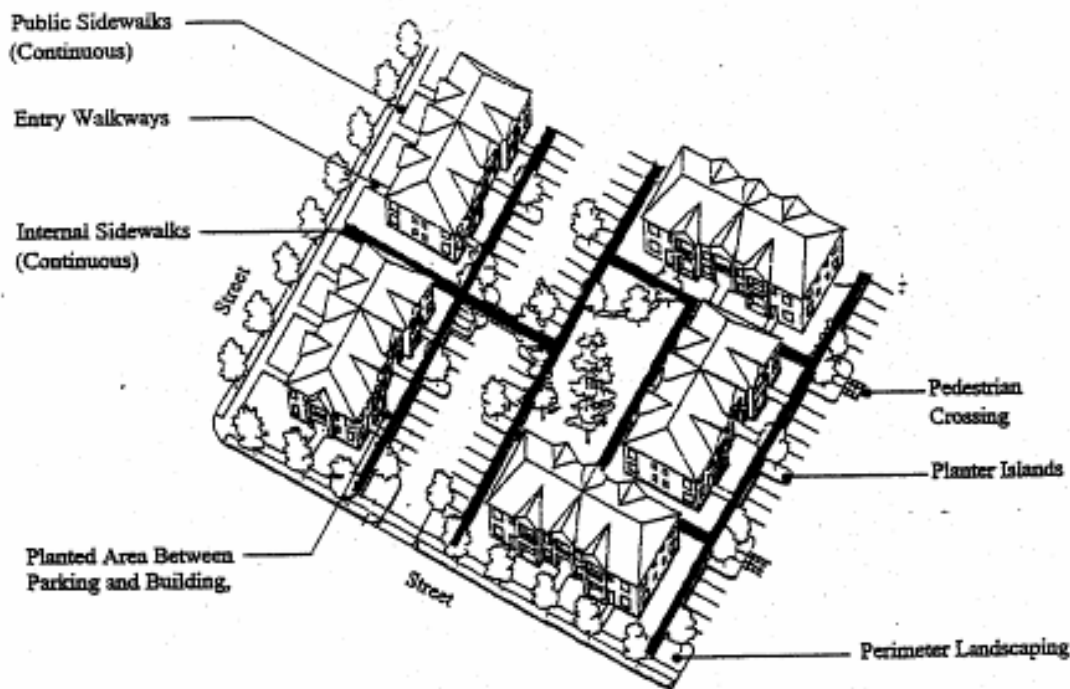
a. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

b. Safe and convenient. Routes that are reasonably free from hazards and provide a

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- reasonably direct route of travel between destinations.
- c. "Primary entrance" for commercial, industrial, mixed use, public, and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.
 - d. "Primary entrance" for residential buildings is the front door (i.e. facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the "primary entrance" may be a lobby, courtyard, or breezeway which serves as a common entrance for more than one dwelling.
3. Connections within Development. Walkways within developments shall be provide connections as required in subsections a -c, below:
- a. Connect all building entrances to one another to the extent practicable, as generally shown in Figure 1;
 - b. Connect all on-site parking areas, recreational facilities and common areas, and connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections, as generally shown in Figure 1; and

Figure 1 Pedestrian Pathway System (Typical)



- c. Install protected raised walkways through parking areas of 50 or more spaces, or of more than 100 feet in average width or depth.
- B. Walkway Design and Construction.** Walkways shall conform to all of the standards in subsections 1-4, as generally illustrated in Figure 2:
- 1. Vehicle/Walkway Separation. Except for crosswalks (subsection 2), where a walkway abuts a driveway or street, it shall be raised six inches and curbed along the edge of the

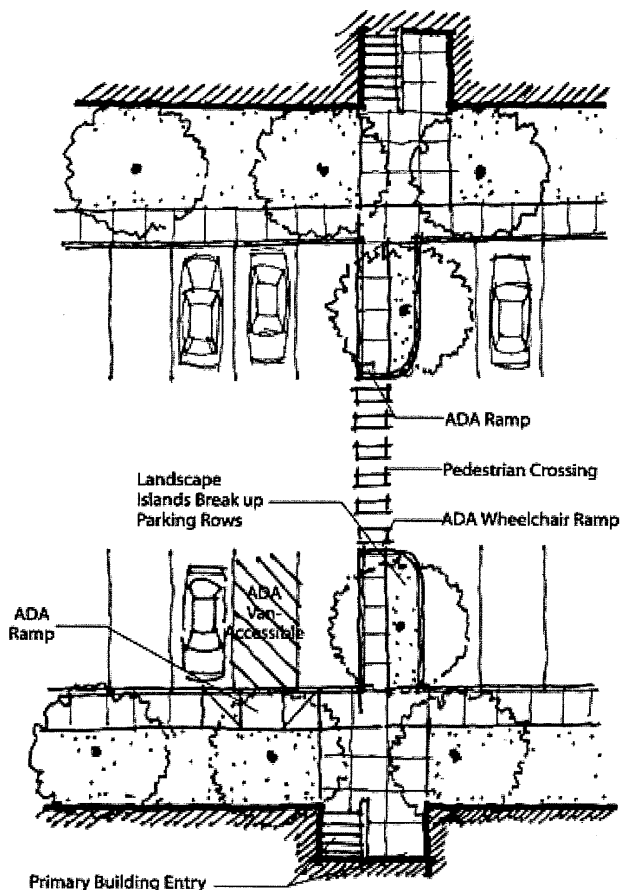
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driveway/street. Alternatively, the decision body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is protected from all vehicle maneuvering areas. An example of such protection is a row of decorative metal or concrete bollards designed to withstand a vehicle's impact, with adequate minimum spacing between them to protect pedestrians.

2. Crosswalks. Where walkways cross a parking area or driveway, clearly mark crosswalks with contrasting paving materials (e.g., light-color concrete inlay between asphalt), which may be part of a raised/hump crossing area. Painted or thermo-plastic striping and similar types of non-permanent applications may be approved for crosswalks not exceeding 24 feet in length.
3. Walkway Surface and Width. Walkway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, and at least five feet wide. Multi-use paths (i.e. for bicycles and pedestrians) shall be concrete or asphalt, and at least 10 feet wide in accordance with the Ashland Street Standards in Section 18.88.020.K.
4. Accessible routes. Walkways shall comply with applicable Americans with Disabilities Act (ADA) and State of Oregon requirements. The ends of all raised walkways, where the walkway intersects a driveway or street shall provide ramps that are ADA accessible, and walkways shall provide direct routes to primary building entrances.
5. Provide pedestrian scale lighting no greater than 14 feet in height along pedestrian facilities.

(Ord 3054, amended 12/16/2011)

Figure 2 Pedestrian Walkway Detail (Typical)



SECTION 18.92.100 Construction.

The required parking, access and circulations facilities, shall be installed prior to a release of a certificate of use and occupancy or a release of utilities, and shall be permanently maintained as a condition of use. However, the Building Official may, unless otherwise directed by the Planning Commission or Staff Advisor, release a temporary certificate of use and occupancy and a temporary release of utilities before the installation of said facilities provided: (1) there is proof that the owner has entered into a contract with a reputable installer for the completion of the parking, including design standards, with a specified time, and that there remains nothing for the owner to do prior to installation; or (2) the owner has posted a satisfactory performance bond to ensure the installation of said parking facilities within a specified time.

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SECTION 18.92.110 Alterations and Enlargements.

The required parking, access and circulation facilities shall be constructed when an existing building or dwelling is altered or enlarged by the addition or creation of guest rooms or dwelling units, or when a use is intensified by the addition of floor space, seating capacity, or change in use. (Ord 2659, 1991; Ord 2777, 1996, Ord 3054, amended 12/16/2011)

SECTION 18.92.120 Availability of Facilities.

Required parking, access and circulation shall be available for use by residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials.
(Ord 3054, amended 12/16/2011)

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CHAPTER 18.94

HOME OCCUPATIONS

SECTIONS:

- 18.94.100 Purpose and Intent.**
- 18.94.110 Conduct of Home Occupation - Standards.**
- 18.94.120 Prohibited Uses.**
- 18.94.130 Permit Required - Application.**

SECTION 18.94.100 Purpose and Intent.

The purpose of this chapter is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture are appropriate in scale and impact to be operated within a residence. Home occupations shall also be recognized for their contribution in reducing the number of vehicle trips often generated by conventional businesses. It is the intent of this chapter that home occupations not infringe upon the right of neighboring residents to enjoy the peaceful and safe occupancy of their homes. However, large-impact commercial operations, which would ordinarily be conducted in a commercial or employment district shall continue to be conducted in those districts and not as a home occupation.

SECTION 18.94.110 Conduct of Home Occupation - Standards.

Home occupations shall be subject to the following standards:

A. Appearance of Residence.

1. The home occupation shall be restricted to the dwelling unit, accessory structure, or yard area not visible from the public right-of-way and be conducted in such a manner as not to give an outward appearance of a business.
2. The home occupation shall not result in any structural alterations or additions to the dwelling or accessory structure that will change its primary use.
3. No display of products and or equipment produced or used by the home occupation may be displayed so as to be visible from outside the dwelling or accessory structure.

B. Storage.

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond that normally incidental to residential use is prohibited.
3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in the dwelling or accessory structure.

C. Employees.

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee, and no more than one employee at any given time. As used in this chapter, the term "home occupation site" means the lot on which the home occupation is conducted.

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2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work at the home.
3. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. **Advertising and Signage.** No signs shall be permitted on a home occupation site.

E. **Automobiles, parking and traffic.**

1. One commercial automobile associated with the home occupation is allowed at the home occupation site. Such automobile shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
2. There shall be no excessive commercial vehicle deliveries from or to the home occupation site. Excessive deliveries are defined as more than three per day, during the hours of 7 a.m. to 7 p.m. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 7 a.m.
3. There shall be no more than one client's or customer's automobile at any one time and no more than eight per day at the home occupation site.

F. Clients or customers are permitted at the home occupation from 7 a.m. to 7 p.m. only.

SECTION 18.94.120 Prohibited Uses.

The following uses are prohibited as home occupations:

- A. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards.
- B. Any activity involving on-site retail sales, except as allowed in the Historic Railroad District or items that are incidental to the occupational use, such as the sale of beauty products from salons, lesson books or sheet music for music teachers, or computer software for computer consultants.
- C. Any uses described in this section or uses with similar objectionable impacts because of automobile traffic, noise, glare, odor, dust, smoke or vibration:
 1. Ambulance service;
 2. Ammunition or firearm sales;
 3. Ammunition reloading business;
 4. Animal hospital, veterinary services, kennels or animal boarding;
 5. Auto and other vehicle repair, including auto painting;
 6. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles or large equipment on-site;

SECTION 18.94.130 Permit Required - Application.

- A. No person shall conduct a home occupation without first obtaining a home occupation permit from the Planning Department and a valid business license as required under Title 6 of this code.

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- B. The Staff Advisor shall require of the applicant for a home occupation permit such information as is necessary to determine the location and type of business, and the manner in which it will be conducted. If the Staff Advisor finds that the proposed home occupation complies with the requirements of this chapter, the Staff Advisor shall issue a permit.
- C. The home occupation permit is valid only to the person named on the permit and for the business to be conducted at the location stated on the permit. The permit is not transferable to another location or to another applicant.
- D. Issuance of a home occupation permit under this chapter shall not relieve the applicant from the duty and responsibility to comply with all other rules, regulations, ordinances or other laws governing the use of the premises and structures thereon, including, but not limited to, the specialty codes defined in chapter 15.04, the Uniform Fire Code and Uniform Fire Code Standards defined in chapter 15.28, or any private restrictions relative to the property.
- E. The Staff Advisor or designee may visit and inspect the site of a home occupation permitted in this chapter periodically to insure compliance with all regulations and conditions to which the permit is subject, during normal business hours, and with reasonable notice.

(Ord. 2744, 1994)

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CHAPTER 18.96

SIGN REGULATIONS

SECTIONS:

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18.96.050	Sign Permits.
18.96.060	General Sign Regulations.
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18.96.080	Commercial-Downtown Overlay District (C-1-D).
18.96.090	Commercial, Industrial and Employment Districts.
18.96.100	Freeway Sign Zone.
18.96.110	Abatement of Nuisance Signs.
18.96.120	Construction and Maintenance Standards.
18.96.130	Nonconforming Signs.
18.96.140	Enforcement.
18.96.150	Governmental Signs.
18.96.160	Historic Signs.

SECTION 18.96.010 Purpose.

This Chapter shall hereafter be known and designated as the "Sign Ordinance of the City of Ashland", and is adopted in recognition of the important function of signs and the need to safeguard and enhance the economic and aesthetic values in the City of Ashland through regulation of such factors as size, number, location, illumination, construction, and maintenance of signs; and thereby safeguard public health, safety and general welfare.

SECTION 18.96.020 Definitions Relating to Signs.

1. **Alteration.** Any change excluding content, and including but not limited to the size, shape, method of illumination, position, location, materials, construction, or supporting structure of a sign.
2. **Area.** The entire area within circles, triangles or rectangles which enclose the extreme limits of lettering, logo, trademark, or other graphic representation, together with any frame or structural trim forming an integral part of the display used to differentiate the sign from the background against which it is placed. In the case of a multi-faced sign, the area of each face shall be included in determining sign area, excepting double-faced signs placed no more than 24 inches back-to-back.
3. **Awning.** A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.
4. **Building Face of Wall.** All window and wall area of a building in one plane or elevation.

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5. **Bulletin Board or Reader Board.** A sign of a permanent nature, but which accommodates changeable copy.
6. **Business.** A commercial or industrial enterprise.
7. **Business Frontage.** A lineal front footage of a building or portion thereof devoted to a specific business or enterprise, and having a pedestrian entrance/exit open to the general public during all business hours.
8. **Business Premises.** A parcel of property or that portion thereof occupied by one tenant.
9. **Canopy.** A non-movable roof-like structure attached to a building.
10. **Construction sign.** A temporary sign erected on the premises where construction is taking place during the period of construction.
11. **Direct Illumination.** A source of illumination on the surface of a sign or from within a sign.
12. **Election.** The time designated by law for voter to cast ballots for candidates and measures.
13. **Flashing Sign.** A sign incorporating intermittent electrical impulses to a source of illumination or revolving or moving in a manner which creates the illusion of flashing, or which changes color or intensity of illumination. This definition is to include electronic time, date and temperature signs.
14. **Ground Sign.** A sign erected on a free-standing frame, mast or pole and not attached to any building. Also known as a "free-standing sign".
15. **Indirect Illumination.** A source of illumination directed toward a sign so that the beam of light falls upon the exterior surface of the sign.
16. **Illegal Sign.** A sign which is erected in violation of the Ashland Sign Code (18.96).
17. **Marquee Sign.** A sign which is painted on, attached to, or supported by a marquee, awning or canopy.
18. **Marquee.** A non-movable roof-like structure which is self-draining.
19. **Non-conforming Sign.** An existing sign, lawful at the time of enactment of this Ordinance, which does not conform to the requirements of this Code.
20. **Projecting Signs.** Signs other than wall signs, which are attached to and project from a structure or building face, usually perpendicular to the building face.
21. **Portable Sign.** A permitted sign not permanently attached to the ground or other permanent structure including sandwich boards, pedestal signs, 'A' Frame signs, flags, and wind signs (not including flags of national, state or city governments).

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22. **Public Art.** Public Art defined, approved, and installed in accordance with section 2.17 of the Ashland Municipal Code shall not be regulated as a sign per the provisions of this Chapter.
23. **Real Estate Sign.** A sign erected on the premises, where the property, or a portion of the property, is actively listed for sale or lease, during the period of sale or lease.
24. **Replacement Sign.** A change in the materials of permitted sign in which the approved sign dimensions, supporting structure, and location remain unaltered.
25. **Roof Sign.** Any sign erected upon, against, or directly above a roof or top of or above the parapet of a building.
26. **Shopping Center or Business Complex.** Any business or group of businesses which are in a building or group of buildings, on one or more lots which are contiguous or which are separated by a public right-of-way or a privately owned flag drive used for access and not greater than 35 feet in width, which are constructed and/or managed as a single entity, and share ownership and/or function.
27. **Sign.** Any identification, description, illustration, symbol or device which is placed or affixed directly or indirectly upon a building, structure, or land, Interior illuminated panels, fascia strips, bands, columns, or other interior illuminated decorative features located on or off a structure, visible from the public right-of-way, and with or without lettering or graphics shall also be considered a sign and included in the overall sign area of the site. Public Art shall not be considered a sign.
28. **Sign, Public.** A sign erected by a public officer or employee in the performance of a public duty which shall include, but not be limited to, motorist informational signs and warning lights.
29. **Street Frontage.** The lineal dimension in feet that the property upon which a structure is built abuts a public street or streets.
30. **Temporary Sign.** A sign which is not permanently affixed. All devices such as banners, pennants, flags, (not including flags of national, state or city governments), searchlights, curb signs, balloons or other air or gas-filled balloons.
31. **Three-Dimensional Sign.** A sign which has a depth or relief on its surface greater than six inches exclusive of the supporting sign structure and not to include projecting wall signs.
32. **Vehicle Sign.** A sign mounted on a vehicle, bicycle, trailer or boat, or fixed or attached to a device for the purpose of transporting from site-to-site.
33. **Wall Graphics.** Including but not limited to any mosaic, mural or painting or graphic art technique or combination or grouping of mosaics, murals, or paintings or graphic art techniques applied, implanted or placed directly onto a wall or fence.
34. **Wall Sign.** A sign attached to or erected against the wall of a building with the face in a parallel plane of the building wall.

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35. **Wind Sign or Device.** Any sign or device in the nature of banners, flags, balloons, or other objects fastened in such a manner as to move upon being subject to pressures by wind or breeze. (Ord 2982, amended, 04/21/2009)

SECTION 18.96.030 Exempted Signs.

The following signs and devices shall not be subject to the provisions of this chapter except for 18.96.040 and 18.96.140.

- A. Informational signs placed by the City of Ashland or by the State or Oregon in the publicly owned right-of-way. Collective identification or directory signs placed by the City of Ashland showing the types and locations of various civic, business, recreation, historic interest areas, or other similar uses, when such signs are located on publicly owned right-of-way or on City of Ashland property.
- B. Memorial tablets, cornerstones, or similar plaques not exceeding six square feet in size.
- C. Flags of national, state or local governments.
- D. Signs within a building provided they are not visible to persons outside the building.
- E. Temporary signs not exceeding four square feet, provided the signs are erected no more than 45 days prior to and removed within seven days following an election. (Ord 2844; S1 1999)
- F. Temporary, non-illuminated real estate signs not exceeding six square feet in residential areas or twelve square feet in commercial and industrial areas, provided said signs are removed within fifteen days from the sale, lease or rental of the property. Such signs shall be limited to one sign per lot. Free-standing temporary real estate signs shall be no greater than five feet above grade.
- G. Temporary non-illuminated construction signs on a lot with an aggregate area not exceeding sixteen (16) square feet in residential areas or thirty-two (32) square feet in commercial and industrial areas, provided said signs are removed within seven days of completion of the project. Such signs shall be limited to no more than four signs per lot. Free-standing temporary construction signs shall be no greater than five feet above grade.
- H. Small incidental signs provided said signs do not exceed two square feet in area per sign, not more than two in number on any parcel or two per business frontage, whichever is greater. Within the Downtown Design Standards Zone, three incidental signs with a total area of seven square feet, provided no single incidental sign exceeds three square feet in area, are allowable per business frontage.
- I. Temporary signs painted or placed upon a window in a non-residential zone, when such signs do not obscure more than twenty percent of such window area, and are maintained for a period not exceeding seven days. Signs which remain longer than seven days will be considered permanent and must comply with the provisions of the Ashland Sign Code (18.96).
- J. Any sign which is not visible to motorists or pedestrians on any public highway, sidewalk, street or alley.

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- K. Strings of Lights. Strings of lights in non-residential zones where the lights do not exceed 5 watts per bulb do not flash or blink in any way. Strings of lights in residential zones are not regulated.
- L. Temporary non-illuminated signs not exceeding 16 square feet for charitable fundraising events placed by non-profit and charitable organizations. Such signs shall not be placed more than seven days prior to the event and must be removed within two days following the event. No more than two such events may be advertised in this manner per lot per year.

All of the foregoing exempted signs shall be subject to the other regulations contained in this Chapter 18.96 relative to the size, lighting or spacing of such sign. (Ord 2982, amended, 04/21/2009)

SECTION 18.96.040 Prohibited Signs.

- A. No sign, unless exempted or allowed pursuant to this Chapter, shall be permitted except as may be provided in Section 18.96.030.
- B. No movable sign, temporary sign or bench sign shall be permitted except as may be provided in Section 18.96.030.
- C. No wind sign, device, or captive balloon shall be permitted except as may be provided in Section 18.96.030 and 18.96.080(B)6.
- D. No flashing signs shall be permitted.
- E. No sign shall have or consist of any moving, rotating, or otherwise animated part.
- F. No three-dimensional statue, caricature or representation of persons, animals or merchandise shall be used as a sign or incorporated into a sign structure except as may be provided in Sections 18.96.080(B)5.
- G. No public address system or sound devices shall be used in conjunction with any sign or advertising device.
- H. No roof signs or signs which project above the roof shall be permitted.
- I. No exposed sources of illumination shall be permitted on any sign, or for the decoration of any building, including, but not limited to, neon or fluorescent tubing and flashing incandescent bulbs, except when the source of illumination is within a building, and at least ten (10) feet from a window which allows visibility from the public right-of-way, or when a sign is internally illuminated or the source of light is fully shielded from the public view.
- J. No signs which use plastic as part of the exterior visual effects or are internally illuminated in the Historic District, as identified in the Ashland Comprehensive Plan, or in any residential districts shall be permitted.
- K. No bulletin boards or signs with changeable copy shall be permitted, except as allowed in Section 18.96.060(D).

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- L. No wall graphics shall be permitted.
- M. No unofficial sign which purports to be, is an imitation of, or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic, or which hides from view any official traffic sign or signal shall be permitted.
- N. Vehicle signs used as static displays such that the primary purpose of the vehicle is the display of the sign, placed or parked on the public right-of-way for a continuous period of 2 days or more. Vehicles and equipment regularly used in the conduct of the business such as delivery vehicles, construction vehicles, fleet vehicles, or similar uses, shall not be subjected to this prohibition. (Ord 2982, amended, 04/21/2009)

SECTION 18.96.050 Sign Permits.

- A. **Sign Permit Required.** A sign permit is required in each of the following instances:
 - 1. Upon the erection of any new sign except exempted signs.
 - 2. To make alteration to an existing sign, including a change in the size or materials. Permits shall not be required for minor maintenance and repairs to existing signs or for changes in sign copy for conforming signs.
 - 3. To alter an existing non-conforming sign, subject to Section 18.96.150.
 - 4. To erect a temporary sign for a new business subject to Section 18.96.050(D).
- B. **Required Information for a Sign Permit.** For the purposes of review by the Staff Advisor and Building Official, a drawing to scale shall be submitted which indicates fully the material, color, texture, dimensions, shape, relation and attachment to building and other structures, structural elements of the proposed sign, and the size and dimensions of any other signs located on the applicant's building or property.
- C. **Temporary Signs for New Businesses.** The Staff Advisor or his/her designate can issue a permit for a temporary sign for new businesses for a period not to exceed seven days. A permit is required for these signs but the permit fee is waived.
- D. **Unsafe or Illegal Signs.**
 - 1. If the Staff Advisor or Building Official shall find that any sign is unsafe or insecure, or any sign erected or established under a sign permit has been carried out in violation of said permit or this chapter, he/she shall give written notice to the permittee or owner thereof to remove or alter such sign within seven days.
 - 2. The Staff Advisor or Building Official may cause any sign which is an immediate peril to persons or property, or sign erected without a permit, to be removed immediately, and said sign shall not be re-established until a valid permit has been issued. Failure to remove or alter said signs as directed shall subject the permittee or owner to the penalties prescribed in this Title.
 - 3. Any person who erects, constructs, prints, paints or otherwise makes a sign for which a sign permit or approval is required under Chapter 18.96 without first having determined a permit has been obtained for such sign, has committed an infraction, and upon conviction thereof is punishable as prescribed in section 1.08.020 of the Ashland Municipal Code. It shall not be a defense to this section that such person erected, constructed, printed, painted or otherwise made the sign for another. (Amended Ord 2754, 1995)

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- E. **Sign Permit Record Required.** The Planning Department shall keep a copy and permanent record of each sign permit issued.
- F. **Sign Permit Fee.** The fee for a sign permit shall be as set forth in Resolution No. 88-01, as adopted by the City Council. The fee for any sign which is erected without a sign permit shall be double the regular sign fee.

SECTION 18.96.060 General Sign Regulations.

The following general provisions shall govern all signs in addition to all other applicable provisions of this chapter.

- A. **Variances.** The following regulations pertaining to signs are not subject to the variance section of this Code:
 - 1. Section 18.96.040 - Prohibited signs.
 - 2. Section 18.96.110 - Abatement of nuisance signs.
 - 3. Section 18.96.120 - Construction and maintenance standards.
 - 4. The size, height and number of constraints of Sections 18.96.070, 18.96.080, 18.96.090 and 18.96.100, except as may be allowed in 18.96.130.
- B. **Obstruction by Signs.** No sign or portion thereof shall be placed so that it obstructs any fire escape, stairway or standpipe; interferes with human exit through any window of any room located above the first floor of any building; obstructs any door or required exit from any building; or obstructs any required light or ventilation.
- C. **Bulletin Board or Reader Board.** Twenty (20) percent of permitted sign area may be allowed as a bulletin board or reader board.
- D. **Placement of Signs.**
 - 1. Near residential. No sign shall be located in a commercial or industrial district so that it is primarily visible only from a residential district.
 - 2. Near street intersections. No signs in excess of two and one-half feet in height shall be placed in the vision clearance area. The vision clearance area is the triangle formed by a line connecting points twenty-five feet from the intersection of property lines. In the case of an intersection involving an alley and a street, the triangle is formed by a line connecting points ten feet along the alley and twenty-five feet along the street. When the angle of intersection between the street and the alley is less than 30 degrees, the distance shall be twenty-five feet. This provision shall apply to all zones.
 - 3. Near driveways. No sign or portion thereof shall be erected within ten feet of driveways unless the same is less than two and one-half feet in height.
 - 4. Future street right-of-way. No sign or portion thereof shall be erected within future street right-of-ways, as depicted upon the Master Street Plan, unless and until an agreement is recorded stipulating that the sign will be removed or relocated upon street improvements at no expense to the City.

SECTION 18.96.070 Residential and North Mountain Sign Regulations.

Signs in the residential (R) and North Mountain (NM) districts shall conform to the following regulations:

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A. Special Provisions:

1. No sign or portion thereof shall extend beyond any property line of the premises on which such sign is located.
2. Internally illuminated signs shall not be permitted.
3. Nothing contained herein shall be construed as permitting any type of sign in conjunction with a commercial use allowed as a home occupation, as no signs are allowed in conjunction with a home occupation. Signs in residential areas are only permitted in conjunction with a Conditional Use.

B. Type of Signs Permitted.

1. Neighborhood identification signs. One sign shall be permitted at each entry point to residential developments not exceeding an area of six square feet per sign with lettering not over nine inches in height, located not over three feet above grade.
2. Conditional Uses. Uses authorized in accordance with the Chapter on Conditional Use Permits may be permitted one ground sign not exceeding an overall height of five feet and an area of fifteen square feet, set back at least ten feet from property lines; or one wall sign in lieu of a ground sign. Such signs shall be approved in conjunction with the issuance of such conditional use permit. Said signs shall not use plastic as part of the exterior visual effect and shall not be internally illuminated.
3. Retail commercial uses allowed as a conditional use in the Railroad District and traveler's accommodations in residential zones shall be allowed one wall sign or one ground sign which meets the following criteria:
 - a. The total size of the sign is limited to six square feet.
 - b. The maximum height of any ground sign is to be three feet above grade.
 - c. The sign must be constructed of wood and cannot be internally illuminated.
4. North Mountain Signs. Signs for approved non-residential uses within the NM-R15, NM-C and NM Civic zones shall be permitted one ground sign not exceeding an overall height of five feet and an area of fifteen square feet, set back at least ten feet from property lines; or one wall or awning sign in lieu of a ground sign. Said signs shall not use plastic as part of the exterior visual effect and shall not be internally illuminated.

(Ord 2951, amended, 07/01/2008)

SECTION 18.96.080 Commercial-Downtown Overlay District (C-1-D).

Signs in the Commercial-Downtown Overlay District shall conform to the following regulations:

A. Special Provisions.

1. Frontage. The number and use of signs allowed by virtue of a given business frontage shall be placed only upon such business frontage.
2. Aggregate number of signs. The aggregate number of signs for each business shall be two signs for each business.
3. Material. No sign in the Commercial-Downtown Overlay District shall use plastic as part of the exterior visual effects of the sign.
4. Aggregate area of signs. The aggregate area of all signs established by and located on a given street frontage shall not exceed an area equal to one square foot for each lineal foot of street frontage. Aggregate area shall not include nameplates, and real estate and construction signs.

B. Types of Signs Permitted.

1. **Wall Signs.**

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- a. Number. Two signs per building frontage shall be permitted for each business, or one sign per frontage for a group of businesses occupying a single common space or suite.
 - b. Area. Buildings with two or fewer business frontages shall be permitted one square foot of sign area for each lineal foot of business frontage. For the third and subsequent business frontages on a single building, the business shall be permitted one square foot of sign area for every two lineal feet of business frontage. The maximum sign area on any single business frontage shall not exceed sixty (60) square feet.
Business frontages of three or more, on a single building, shall comply with the following criteria established within the City's Site Design and Use Standards:
 - i. A pedestrian entrance designed to be attractive and functional, and open to the public during all business hours
 - ii. The pedestrian entrance shall be accessed from a walkway connected to a public sidewalk.
 - c. Projection. Signs may project a maximum of two feet from the face of the building to which they are attached, provided the lowest portion of the sign is at least eight feet above grade. Any portion lower than eight feet may only project four inches.
 - d. Extension above roof line. Signs may not project above the roof or eave line of the building.
2. **Ground Signs.**
- a. Number. One sign, in lieu of a wall sign, shall be permitted for each lot with a street frontage in excess of fifty lineal feet. Corner lots can count one street frontage. Two or more parcels of less than fifty feet may be combined for purposes of meeting the foregoing standard.
 - b. Area. Signs shall not exceed an area of one square foot for each two lineal feet of street frontage, with a maximum area of sixty square feet per sign.
 - c. Placement. Signs shall be placed so that no sign or portion thereof shall extend beyond any property line of the premises on which such sign is located. Signs on corner properties shall also comply with the vision clearance provisions of Section 18.96.060(F).
 - d. Height. No ground sign shall be in excess of five feet above grade.
3. **Marquee or Awning Signs.**
- a. Number. A maximum of two signs shall be permitted for each business frontage in lieu of wall signs.
 - b. Area. Signs shall not exceed the permitted aggregate sign area not taken up by a wall sign.
 - c. Projection. Signs may not project beyond the face of the marquee if suspended, or above the face of the marquee if attached to and parallel to the face of the marquee.
 - d. Height. Signs shall have a maximum face height of nine inches if placed below the marquee.
 - e. Clearance above grade. The lowest portion of a sign attached to a marquee shall not be less than seven feet, six inches above grade.
 - f. Signs painted on a marquee. Signs can be painted on the marquee in lieu of wall signs provided the signs do not exceed the permitted aggregate sign area not taken up by wall signs.
4. **Projection Signs.**
- a. Number. One sign shall be permitted for each business or group of businesses occupying a single common space or suite in lieu of a wall sign.

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- b. Area. Except for marquee or awning signs, a projecting sign shall not exceed an area of one square foot for each two feet of lineal business frontage that is not already utilized by a wall sign. The maximum area of any projecting sign shall be 15 square feet.
 - c. Projection. Signs may project from the face of the building to which they are attached a maximum of two feet if located eight feet above grade, or three feet if located nine feet above grade or more.
 - d. Height and extension above roof line. Signs shall not extend above the roofline, eave or parapet wall of the building to which they are attached, or be lower than eight feet above grade.
 - e. Limitation on placement. No projecting sign shall be placed on any frontage on an arterial street as designated in the Ashland Comprehensive Plan.
5. **Three-Dimensional Signs.**
- a. Number. One three-dimensional sign shall be permitted for each lot in lieu of one three square foot incidental sign otherwise allowed per 18.96.030(H).
 - b. Surface Area. Flat surfaces in excess of two square feet shall count toward the total aggregate sign area per 18.96.080(A)4.
 - c. Placement. The three-dimensional sign shall be located so that no sign or portion thereof is within a public pedestrian easement or extends beyond any property line of the premises on which such sign is located into the public right-of-way unless the sign is attached to the face of the building and located eight feet above grade, or the sign is attached to a marquee with the lowest portion of the sign not less than seven feet, six inches above grade not projecting beyond, or above, the face of the marquee.
 - d. Dimensions. No three-dimensional sign shall have a height, width, or depth in excess of three feet.
 - e. Volume. The volume of the three-dimensional sign shall be calculated as the entire volume within a rectangular cube enclosing the extreme limits of all parts of the sign and shall not exceed three (3) cubic feet. For the purposes of calculating volume the minimum dimension for height, width, or depth shall be considered one foot.
 - f. Materials. The three-dimensional signs shall be constructed of metal, wood, bronze, concrete, stone, glass, clay, fiberglass, or other durable material, all of which are treated to prevent corrosion or reflective glare. Three dimensional signs shall not be constructed of plastic. Three dimensional signs shall not be internally illuminated or contain any electrical component.
6. **Portable Business Signs**
- a. Number. One portable business sign, limited to sandwich boards, pedestal signs, 'A' frame signs, flags, and wind signs, shall be allowed on each lot excepting that buildings, businesses, shopping centers, and business complexes with permanent ground signs shall not be permitted to have portable signs.
 - b. Area. Sign area shall be deducted from the aggregate sign allowed for exempt incidental signs established in 18.96.030(H). Signs shall not exceed an area of four (4) square feet per face including any border or trim, and there shall be no more than two (2) faces.
 - c. Height. Sandwich board signs and 'A' frame signs shall not extend more than three (3) feet above the ground on which it is placed. Pedestal signs shall not extend more than four (4) feet above the ground on which it is placed. A freestanding wind sign shall not extend more than five (5) feet above the ground on which it is placed.
 - d. Placement. Signs shall be placed so that no sign or portion thereof shall extend

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beyond any property line of the premises on which such sign is located. Portable signs shall be located within ten feet of the business entrance and shall not be placed on public right-of-way. No portable business sign shall be constructed and placed so as to interfere with pedestrian ingress and egress as regulated within the Ashland Municipal Code.

- e. General Limitations. Signs shall be anchored, supported, or designed as to prevent tipping over, which reasonably prevents the possibility of signs becoming hazards to public health and safety. Signs shall not be constructed of plastic, illuminated or contain any electrical component. No objects shall be attached to a portable sign such as but not limited to balloons, banners, merchandise, and electrical devices. Portable business signs shall be removed at the daily close of business. These signs are prohibited while the business is closed. (Ord 2982, amended, 04/21/2009)

SECTION 18.96.090 Commercial, Industrial and Employment Districts.

Signs in commercial, industrial, employment and Croman Mill districts, excepting the Downtown-Commercial Overlay District and the Freeway Overlay District, shall conform to the following regulations:

A. Special Provisions.

1. Frontage. The number and use of signs allowed by virtue of a given business frontage shall be placed only upon such business frontage.
2. Aggregate number of signs. The aggregate number of signs for each business shall be two signs for each business frontage.
3. Aggregate area of signs. The aggregate area of all signs established by and located on a given street frontage, shall not exceed an area equal to one square foot of sign area for each lineal foot of street frontage. Aggregate area shall not include nameplates, and temporary real estate and construction signs.

B. Types of Signs Permitted.

1. Wall Signs.

- a. Number. Two signs per building frontage shall be permitted for each business, or one sign per frontage for a group of businesses occupying a single common space or suite.
- b. Area. Buildings with two or fewer business frontages shall be permitted one square foot of sign area for each lineal foot of business frontage. For the third and subsequent business frontages on a single building, the business shall be permitted one square foot of sign area for every two lineal feet of business frontage. The maximum sign area on any single business frontage shall not exceed sixty (60) square feet.
Business frontages of three or more, on a single building, shall comply with the following criteria established within the City's Site Design and Use Standards:
 - i. A pedestrian entrance designed to be attractive and functional, and open to the public during all business hours
 - ii. The pedestrian entrance shall be accessed from a walkway connected to a public sidewalk.
- c. Projection. Except for marquee or awning signs, a projecting sign may project a maximum of two feet from the face of the building to which they are attached, provided the lowest portion of the sign is at least eight feet above grade. Any portion lower than eight feet can only project four inches.

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- d. Extension above roof line. Signs may not project above the roof or eave line of the building.
2. **Ground Signs.**
- a. Number. One sign shall be permitted for each lot with a street frontage in excess of fifty lineal feet. Corner lots can count both street frontages in determining the lineal feet of the street frontage but only one ground sign is permitted on corner lots. Two or more parcels of less than fifty feet may be combined for purposes of meeting the foregoing standard.
 - b. Area. Signs shall not exceed an area of one square foot for each two lineal feet of street frontage, with a maximum area of sixty square feet per sign.
 - c. Placement. Signs shall be placed so that no sign or portion thereof shall extend beyond any property line of the premises on which such sign is located. Signs on corner properties shall also comply with the vision clearance provisions of Section 18.96.060(F).
 - d. Height. No ground sign shall be in excess of five feet above grade.
3. **Awning or Marquee Signs.**
- a. Number. Two signs shall be permitted for each business frontage in lieu of wall signs.
 - b. Area. Signs shall not exceed the permitted aggregate sign area not taken up by a wall sign.
 - c. Projection. Signs may not project beyond the face of the marquee if suspended, or above or below the face of the marquee if attached to and parallel to the face of the marquee.
 - d. Height. Signs shall have a maximum face height of nine inches if attached to the marquee.
 - e. Clearance above grade. The lowest portion of a sign attached to a marquee shall not be less than seven feet, six inches above grade.
 - f. Signs painted on a marquee. Signs can be painted on the marquee in lieu of wall sign provided the signs do not exceed the permitted aggregate sign area not taken up by wall signs.
4. **Portable Business Signs**
- a. Number. One portable business sign, limited to sandwich boards, pedestal signs, 'A' frame signs, flags, and wind signs, shall be allowed on each lot excepting that buildings, businesses, shopping centers, and business complexes with permanent ground signs shall not be permitted to have portable signs.
 - b. Area. Sign area shall be deducted from the aggregate sign allowed for exempt incidental signs established in 18.96.030(H). Signs shall not exceed an area of four (4) square feet per face including any border or trim, and there shall be no more than two (2) faces.
 - c. Height. Sandwich board signs and 'A' frame signs shall not extend more than three (3) feet above the ground on which it is placed. Pedestal signs shall not extend more than four (4) feet above the ground on which it is placed. A freestanding wind sign shall not extend more than five (5) feet above the ground on which it is placed.
 - d. Placement. Signs shall be placed so that no sign or portion thereof shall extend beyond any property line of the premises on which such sign is located. Portable signs shall be located within ten feet of the business entrance and shall not be placed on public right-of-way. No portable business sign shall be constructed and placed so as to interfere with pedestrian ingress and egress as regulated within the Ashland Municipal Code.
 - e. General Limitations. Signs shall be anchored, supported, or designed as to prevent

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tipping over, which reasonably prevents the possibility of signs becoming hazards to public health and safety. Signs shall not be constructed of plastic, illuminated or contain any electrical component. No objects shall be attached to a portable sign such as but not limited to balloons, banners, merchandise, and electrical devices. Portable business signs shall be removed at the daily close of business. These signs are prohibited while the business is closed.

5. Three-Dimensional Signs.

- a. Number. One three-dimensional sign shall be permitted for each lot in lieu of one three square foot incidental sign otherwise allowed per 18.96.030(H).
- b. Surface Area. Flat surfaces in excess of two square feet shall count toward the total aggregate sign area per 18.96.090(A) 4.
- c. Placement. The three-dimensional sign shall be located so that no sign or portion thereof is within a public pedestrian easement or extends beyond any property line of the premises on which such sign is located into the public right-of-way unless the sign is attached to the face of the building and located eight feet above grade, or the sign is attached to a marquee with the lowest portion of the sign not less than seven feet, six inches above grade not projecting beyond, or above, the face of the marquee.
- d. Dimensions. No three-dimensional sign shall have a height, width, or depth in excess of three feet.
- e. Volume. The volume of the three-dimensional sign shall be calculated as the entire volume within a rectangular cube enclosing the extreme limits of all parts of the sign and shall not exceed three (3) cubic feet. For the purposes of calculating volume the minimum dimension for height, width, or depth shall be considered one foot.
- f. Materials. The three-dimensional signs shall be constructed of metal, wood, bronze, concrete, stone, glass, clay, fiberglass, or other durable material, all of which are treated to prevent corrosion or reflective glare. Three dimensional signs shall not be constructed of plastic. Three dimensional signs shall not be internally illuminated or contain any electrical component. (Ord 2982, amended, 04/21/2009; Ord 3036, amended, 08/17/10)

SECTION 18.96.100 Freeway Sign Zone.

- A. **Purpose.** This special overlay zone is intended to provide for and regulate certain ground signs which identify businesses in commercial districts located at freeway interchanges.
- B. **Establishment and Location of Freeway Sign Zones.** Freeway sign zones shall be depicted on the official zoning map of the City and identified as the Freeway Overlay District.
- C. **Freeway Overlay Sign Regulations.** All signs in this district shall comply with Section 18.96.090, except for ground signs, which shall comply with the provisions of Section 18.96.100(D), ground sign regulations.
- D. **Ground Sign Regulations.**
 1. Number. One freeway sign shall be permitted for each lot in addition to the signs allowed by 18.96.090 of this Chapter. (Ord 2290, 1984)
 2. Area. Signs shall not exceed an area of one hundred (100) square feet per sign.
 3. Height. Signs shall not exceed a height of 2028 feet above mean sea level.

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SECTION 18.96.110 Abatement of Nuisance Signs.

The following signs are hereby declared a public nuisance and shall be removed or the nuisance abated:

- A. Flashing sign visible from a public street or highway.
- B. Temporary, movable or portable signs located on the publicly owned right-of-way.
- C. Illegal signs.
- D. Signs in obvious disrepair which are not maintained according to the standards set forth in 18.96.120(C). (Ord 2982, amended, 04/21/2009)

SECTION 18.96.120 Construction and Maintenance Standards.

A. Materials of construction.

- 1. Single and multi-family residential districts. All signs and their supporting member may be constructed of any material subject to the provisions of this Chapter.
- 2. Commercial and industrial districts. All signs and their supporting members shall be constructed of non-combustible materials or fire-retardant treated wood which maintains its fire-resistive qualities when tested in accordance with the rain and weathering tests of the U.B.C. Standards No.32-37, unless otherwise provided in this Section.
- 3. Non-treated signs. All wall, ground, marquee and projecting signs of twenty square feet or less may be constructed of non-treated wood.
- 4. Real estate and construction signs. All signs may be constructed of compressed wood particle board or other material of similar fire resistivity.
- 5. Directly illuminated signs. All signs illuminated from within may be faced with plastics approved by the Building Code.
- 6. Glass. All glass used in signs shall be shatter-resistant, or covered by a shatter-resistant material.
- 7. Wood. Wood in contact with the ground shall be foundation-grade redwood, foundation-grade cedar, all heartwood cypress, or any species of wood which has been pressure-treated with an approved preservative. Trim and backing strips may be constructed of wood.

B. Construction Methods.

- 1. All signs shall be constructed of such materials or treated in such manner that normal weathering will not harm, deface or otherwise affect the sign.
- 2. All letters, figure and similar message elements shall be safely and securely attached to the sign structure.
- 3. All signs shall be designed and constructed to resist the applicable wind loads set forth in the Building Code.

- C. Maintenance.** All signs shall be maintained at all times in a state of good repair, and no person shall maintain or permit to be maintained on any premises owned or controlled by him/her, any sign which is in a sagging, leaning, fallen, decayed, deteriorated or other dilapidated or unsafe condition.

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SECTION 18.96.130 Nonconforming Signs.

- A. Any sign which does not conform with a provision of the Ashland Sign Code, and has been in existence for more than five years, is subject to this Section.
- B. Alteration of any existing nonconforming sign. It is unlawful to alter any existing nonconforming sign. The sign must be brought into conformance with this Title upon any physical alteration. Acts of God or vandalism which damage these nonconforming signs shall be exempt from this Section, if the cost of the repair is less than 50% of the cost of replacing the sign with a conforming sign. However, the signs must be restored to their original design and a permit with a \$10.00 fee will be required prior to the repair work.
- C. Any nonconforming sign used by a business, shopping center, or business complex must be brought into conformance prior to any expansion or change in use which requires a Site Review or Conditional Use Permit. All nonconforming signs must be brought into conformance with the same provisions as are required for new signs. No building permits for new construction may be issued until this provision is complied with.
- D. Variances can be granted using the variance procedure of this Title to alleviate unusual hardships or extraordinary circumstances which exist in bringing nonconforming signs into conformity. The variance granted shall be the minimum required to alleviate the hardship or extraordinary circumstance. (Ord. 2357, 1985)

SECTION 18.96.140 Enforcement.

The portions of this Chapter relating to the structural characteristics and safety of signs shall be enforced by the Building Official or his/her designate; all other portions shall be enforced by the Staff Advisory or designate. (Ord 2176, 1982)

SECTION 18.96.150 Governmental Signs.

Governmental agencies may apply for a Conditional Use to place a sign that does not conform to this Code when it is determined that, in addition to the criteria for a conditional use, the sign is necessary to further that agency's public purpose. (Ord 2951, amended, 07/01/2008)

SECTION 18.96.160 Historic Signs.

- A. Historic Sign Inventory. The inventory of historically significant signs shall be established by resolution of the City Council.
- B. Criteria for designation of historic signs. All signs for which designation as a Historic Sign are requested shall be substantially in existence at the time of the application; shall be displayed in their original location; shall be in association with an important event, person, group, or business in the history of the City of Ashland; shall follow a guideline of being in existence for approximately 40 years; and shall meet one of the following criteria:
 - 1. The sign is exemplary of technology, craftsmanship or design of the period when it was constructed, uses historic sign materials or means of illumination, and is not significantly altered from its historic period. If the sign has been altered, it must be restorable to its historic appearance.

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2. The sign is integrated into the architecture of the building and is exemplary of a historically significant architectural style.
- C. The owner of any sign may request that said sign be reviewed for significance in the Historic Sign Inventory upon written application to the City Council. Application fees shall be the same as for Type I applications. Applications shall include written findings addressing the criteria for designation of historic signs, and current and historic photographs of the sign, if available.
1. The Council shall refer all requests for inclusion on the Historic Sign Inventory to the Historic Commission for review and recommendation to the Council within 30 days of the request. Notice of the Historic Commission meeting shall be mailed to all affected property owners within 100' of the subject property. If a recommendation is not made within 30 days, the request shall be forwarded to the Council without a recommendation.
 2. The Council shall, after receiving the recommendation of the Historic Commission or after 30 days, provide notice to all affected property owners within 100' of the subject property of a public hearing before the City Council.
 3. The Council shall decide, based on the criteria above and the recommendation of the Historic Commission, whether to approve the request to include the sign on the inventory.
 4. Inclusion on the Historic Sign Inventory shall be by resolution of the Council.
 5. The burden of proof shall be on the applicant.
- D. Signs on the Historic Sign Inventory in any zoning district shall be exempt from the requirements of this Section except Sections 18.96.110 and 18.96.120(D). Also, that the sign area of the historic sign is exempted from the total allowable sign area, as defined in this Section, except as modified by Council conditions in E. below.
- E. The City Council shall have the authority to impose conditions regulating area, maintenance, etc. on the signs included in the Historic Sign Inventory to further the purpose and intent of this ordinance.
- F. Removal or demolition of a Historic Sign shall be done under permit and approval of the Staff Advisor. The Historic Commission shall review the permit at their next regularly scheduled meeting and shall have the authority to delay issuance for 30 days from the date of their review meeting. Such delay shall be to allow the Commission the opportunity to discuss alternate plans for the sign with the applicant.
- G. Signs on the Historic Sign Inventory, which have been destroyed or damaged by fire or other calamity, by act of God or by public enemy to an extent greater than 50%, may be reconstructed in an historically accurate manner. Such reconstruction shall be authorized by the City Council, only after determination that the reconstruction will be an accurate duplication of the historic sign, based on review of photographic or other documentary evidence specifying the historic design. The Historic Commission shall review and make recommendations to the City Council on all such reconstructions.
- H. Maintenance and Modification of Historic Signs.
1. All parts of the historic sign, including but not limited to neon tubes, incandescent lights and shields, and sign faces, shall be maintained in a functioning condition as historically intended for the sign. Replacement of original visible components with

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substitutes to retain the original appearance shall be permitted provided such replacements accurately reproduce the size, shape, color and finish of the original. Failure to maintain the sign in accord with this section shall be grounds for review of the historic sign designation by the City Council.

2. Modifications of a historic sign may be allowed, after review by the Historic Commission and approval by the City Council, only if such modifications do not substantially change the historic style, scale, height, type of material or dimensions of the historic sign, and does not result in a sign which does not meet the criteria for designation as a historic sign.
3. Changes in the location of a historic sign may be allowed, after review by the Historic Commission and approval by the City Council, only if such locational change does not result in the sign no longer meeting the criteria for designation as a historic sign.

(Ord 2598, 1990)

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CHAPTER 18.100

VARIANCES

SECTIONS:

- 18.100.010** **Variances - Purpose.**
- 18.100.020** **Application.**
- 18.100.030** **Effect.**

SECTION 18.100.010 Variances - Purpose.

Where practical difficulties, unnecessary hardships, and results inconsistent with the general purpose of this Title may result from the strict application of certain provisions thereof, variance may be granted as provided in this Chapter. This Chapter may not be used to allow a use that is not in conformity with the uses specified by this Title for the district in which the land is located. In granting a variance, the City may impose conditions similar to those provided for conditional uses to protect the best interests of the surrounding property and property owners, the neighborhood, or the City as a whole.

SECTION 18.100.020 Application.

The owner or his agent may make application with the Staff Advisor. Such application shall be accompanied by a legal description of the property and plans and elevations necessary to show the proposed development. Also to be included with such application shall be a statement and evidence showing that all of the following circumstances exist:

- A. That there are unique or unusual circumstances which apply to this site which do not typically apply elsewhere.
- B. That the proposal's benefits will be greater than any negative impacts on the development of the adjacent uses; and will further the purpose and intent of this ordinance and the Comprehensive Plan of the City.
(Ord. 2425 S1, 1987).
- C. That the circumstances or conditions have not been willfully or purposely self-imposed.
(Ord. 2775, 1996)

SECTION 18.100.030 Effect.

No building or zoning permit shall be issued in any case where a variance is required until fifteen days after approving of the variance by the Commission, and then only in accordance with the terms and conditions of said approval. An appeal from the action of the Commission shall automatically stay the issuance of the building or other permit until such appeal has been completed and the Council has acted thereon. In the event the Council acts to grant said variance, the building or zoning permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said variance.

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CHAPTER 18.104

CONDITIONAL USE PERMITS

SECTIONS:

- 18.104.010 Conditional Use Permits Generally.**
- 18.104.020 Definitions.**
- 18.104.030 Procedure.**
- 18.104.040 Plan Requirements.**
- 18.104.050 Approval Criteria.**
- 18.104.060 Conditions.**
- 18.104.070 Revocation; Abandonment.**

SECTION 18.104.010 Conditional Use Permits Generally.

Certain uses are permitted in each zoning district only as conditional uses. This chapter provides substantive approval criteria by which applications for conditional use permits are to be evaluated and describes applicable procedures. No conditionally permitted use may be established, enlarged or altered unless the city first issues a conditional use permit in accordance with the provisions of this chapter.

SECTION 18.104.020 Definitions.

The following are definitions for use in this chapter.

- A. **"Impact Area"** - That area which is immediately surrounding a use, and which may be impacted by it. All land which is within the applicable notice area for a use is included in the impact area. In addition, any lot beyond the notice area, if the hearing authority finds that it may be materially affected by the proposed use, is also included in the impact area.

- B. **"Target Use"** - The basic permitted use in the zone, as defined below.
 1. WR (Woodland Residential) and RR (Rural Residential) zones: Residential use complying with all ordinance requirements, developed at the density permitted by Section 18.88.040.
 2. R-1 (Single Family Residential) zones: Residential use complying with all ordinance requirements, developed at the density permitted by Section 18.88.040.
 3. R-2 and R-3 Zones: Residential use complying with all ordinance requirements, developed at the density permitted by the zone.
 4. C-1. The general retail commercial uses listed in 18.32.020(B), developed at an intensity of .35 gross floor to area ratio, complying with all ordinance requirements.
 5. C-1D. The general retail commercial uses listed in 18.32.020 B., developed at an intensity of 1.00 gross floor to area ratio, complying with all ordinance requirements.
 6. E-1. The general office uses listed in 18.40.020(A), developed at an intensity of .35 gross floor to area ratio, complying with all ordinance requirements.
 7. M-1. The general light industrial uses listed in 18.40.020(E), complying with all ordinance requirements.
 8. SO. Educational uses at the college level, complying with all ordinance requirements.
 9. CM-C1. The general light industrial uses listed in 18.53.050(A), developed at an intensity

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of .50 gross floor to area ratio, complying with all ordinance requirements.

10. CM-OE. The general office uses listed in 18.53.050(A), developed at an intensity of .60 gross floor to area, complying with all ordinance requirements.
11. CM-MU. The general office uses listed in 18.53.050(A), developed at an intensity of .60 gross floor to area, complying with all ordinance requirements.
12. CM-NC. The retail commercial uses listed in 18.53.050(A), developed at an intensity of .60 gross floor to area ratio, complying with all ordinance requirements.

(Ord 3036, amended, 08/17/10)

SECTION 18.104.030 Procedure.

An application for a conditional use permit shall be submitted by the owner of the subject property or authorized agent on a form prescribed by the city and accompanied by the required filing fee. The application shall include a plan or drawing meeting the requirements of Section 18.104.040 and shall be processed as provided in Chapter 18.108 of this Title.

SECTION 18.104.040 Plan Requirements.

- A. The plan or drawing accompanying the application shall include the following information:
 1. Vicinity map.
 2. North arrow.
 3. Depiction and names of all streets abutting the subject property.
 4. Depiction of the subject property, including the dimensions of all lot lines.
 5. Location and use of all buildings existing and proposed on the subject property and schematic architectural elevations of all proposed structures.
 6. Location of all parking areas, parking spaces, and ingress, egress and traffic circulation for the subject property.
 7. Schematic landscaping plan showing area and type of landscaping proposed.
 8. A topographic map of the site showing contour intervals of five feet or less.
 9. Approximate location of all existing natural features in areas which are planned to be disturbed, including, but not limited to, all existing trees of greater than six inch dbh, any natural drainage ways, ponds or wetlands, and any substantial outcroppings of rocks or boulders.
- B. An application for a conditional use permit may, but need not be, made concurrently with any required application for site design approval under Chapter 18.72. The provisions of paragraph (1) above are not intended to alter the detailed site plan requirements of Section 18.72.040 for site design approval.

SECTION 18.104.050 Approval Criteria.

A conditional use permit shall be granted if the approval authority finds that the proposed use conforms, or can be made to conform through the imposition of conditions, with the following approval criteria.

- A. That the use would be in conformance with all standards within the zoning district in which the use is proposed to be located, and in conformance with relevant Comprehensive plan policies that are not implemented by any City, State, or Federal law or program.

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- B. That adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, urban storm drainage, and adequate transportation can and will be provided to and through the subject property.
- C. That the conditional use will have no greater adverse material effect on the livability of the impact area when compared to the development of the subject lot with the target use of the zone. When evaluating the effect of the proposed use on the impact area, the following factors of livability of the impact area shall be considered in relation to the target use of the zone:
 - 1. Similarity in scale, bulk, and coverage.
 - 2. Generation of traffic and effects on surrounding streets. Increases in pedestrian, bicycle, and mass transit use are considered beneficial regardless of capacity of facilities.
 - 3. Architectural compatibility with the impact area.
 - 4. Air quality, including the generation of dust, odors, or other environmental pollutants.
 - 5. Generation of noise, light, and glare.
 - 6. The development of adjacent properties as envisioned in the Comprehensive Plan.
 - 7. Other factors found to be relevant by the Hearing Authority for review of the proposed use.

SECTION 18.104.060 Conditions.

The conditions which the approval authority may impose include, but are not limited to the following:

- A. Regulation and limitation of uses.
- B. Special yards, spaces.
- C. Fences and walls.
- D. Dedications, including the present or future construction of streets and sidewalks and bonds for such construction or irrevocable consent improvement petitions for such improvements.
- E. Regulation of points of vehicular and pedestrian ingress and egress.
- F. Regulation of signs.
- G. Regulation of building materials, textures, colors and architectural features.
- H. Landscaping, including screening and buffering where necessary to increase compatibility with adjoining uses.
- I. Regulation of noise, vibration, dust, odors or similar nuisances.
- J. Regulation of hours of operation and the conduct of certain activities.
- K. The period of time within which the proposed use shall be developed.
- L. Duration of use.
- M. Preservation of natural vegetative growth and open space.
- N. Any condition permitted by Section 18.72, Site Design.
- O. Such other conditions as will make possible the development of the city in an orderly and efficient manner and in accordance with the provisions of this Title.

SECTION 18.104.070 Revocation; Abandonment.

Unless a longer period is specifically allowed by the approval authority, any conditional use permit approved under this section, including any declared phase, shall be deemed revoked if the proposed use or phase is not commenced within one year of the date of approval. A use or phase shall not be considered commenced until the permittee has actually obtained a building

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permit and commenced construction or has actually commenced the conditional use on the premises. If the permit requires site design approval under Chapter 18.72, the permit shall be deemed revoked if the use or phase is not developed within one year of the date of site design approval. A conditional use is deemed void if discontinued or abandoned for a period of six consecutive months. (Ord 2228, 1982; Ord 2656, 1991; Ord 2775, 1996)

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CHAPTER 18.106

ANNEXATIONS

SECTIONS:

- 18.106.010 Procedure.**
- 18.106.020 Application.**
- 18.106.025 Initiation by Council.**
- 18.106.030 Approval Standards.**
- 18.106.040 Boundaries.**
- 18.106.050 Statutory procedure.**

SECTION 18.106.010 Procedure.

All annexations shall be processed under the Type III procedure. (Ord 2791, 1997)

SECTION 18.106.020 Application.

Except for annexations initiated by the council or commission pursuant to section 18.106.025, application for annexation shall include the following information:

- A. Consent to annexation which is non-revokable for a period of one year from its date.
- B. Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.
- C. Boundary description and map prepared in accordance with ORS 308.225. Such description and map shall be prepared by a registered land surveyor. The boundaries shall be surveyed and monumented as required by statute subsequent to Council approval of the proposed annexation.
- D. Written findings addressing the criteria in 18.106.030.
- E. Written request by the property owner for a zone change. Provided, however, no written request shall be necessary if the annexation has been approved by a majority vote in an election meeting the requirements of Section 11g of Article XI of the Oregon Constitution (Ballot Measure No. 47) (Ord 2792, 1997)

SECTION 18.106.025 Initiation by Council.

A proposal for annexation may be initiated by the council or commission on its own motion. The approval standards in section 18.106.030 shall apply. Provided, however, that in the case of annexation pursuant to section 18.106.030.4 (current or probable public health hazard due to lack of full City sanitary sewer or water services) or section 18.106.030.6 (the lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits), the approval standards in section 18.106.030.E, F and G shall not apply. (Ord 2792, 1997)

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SECTION 18.106.030 Approval Standards.

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A. The land is within the City's Urban Growth Boundary.
- B. The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C. The land is currently contiguous with the present City limits.
- D. Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.
- E. Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian and transit transportation meeting the following standards:
 - 1. For vehicular transportation a 20' wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20' driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to city standards. Where future street dedications are indicated on the City's Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.
 - 2. For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.
 - 3. For pedestrian transportation safe and accessible pedestrian facilities exist, or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within a quarter of a mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.
 - 4. For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be

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constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.

- F. For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90% of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35%, shall not be included.
- G. Except as provided in 18.106.030.G(7) below, for all annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay):
1. The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25% of the base density as calculated using the unit equivalency values set forth herein:
 - a. Ownership units restricted to households earning at or below 120% the area median income shall have an equivalency value of 0.75 unit.
 - b. Ownership units restricted to households earning at or below 100% the area median income shall have an equivalency value of 1.0 unit.
 - c. Ownership units restricted to households earning at or below 80% the area median income shall have an equivalency value of 1.25 unit.
 - d. Ownership or rental units restricted to households earning at or below 60% the area median income shall have an equivalency value of 1.5 unit, or;
 2. As alternative to providing affordable units per section 18.106.030.G(1) the applicant may provide Title to a sufficient amount of buildable land for development through transfer to a non-profit (IRC 501(3)(c) affordable housing developer or public corporation created under ORS 456.055 to 456.235 for the purpose of complying with subsection 18.106.030.G(1)(b).
 - a. The land to be transferred shall be located within the project meeting the standards set forth in 18.106.030.G(4), 18.106.030.G(5) and 18.106.030.G(6).
 - b. All needed public facilities shall be extended to the area or areas proposed for transfer.
 - c. Prior to commencement of the project, Title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235.
 - d. The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.
 3. The affordable units shall be comparable in bedroom mix and housing type with the market rate units in the development.
 - a. The number of bedrooms per dwelling unit in the affordable Units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate Units. The minimum square footage of each affordable unit

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shall comply with the minimum required floor based as set forth in Table 1.

Table 1

Unit Type	Minimum Required Unit Floor Area (Square Feet)
Studio	350
1 Bedroom	500
2 Bedroom	800
3 Bedroom	1,000
4 Bedroom	1,250

- b. The required on-site affordable units shall be comprised of the different unit types in the same proportion as the market dwelling units within the development.
4. A development schedule shall be provided that demonstrates that that the Affordable Housing Units per 18.106.030.G shall be developed, and made available for occupancy, as follows:
 - a. That 50% of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50% of the market rate units.
 - b. Prior to issuance of a building permit for the final 10% of the market rate units, the final 50% of the affordable units shall have been issued certificates of occupancy.
5. That affordable housing units shall be distributed throughout the project
6. That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.
 - a. The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units
 - b. Affordable units may differ from market-rate units with regard to interior finishes and materials provided that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.
7. Exceptions to the requirements of 18.106.030.G(2), 18.106.030.G(3), 18.106.030.G(4), and/or 18.106.030G(5) may be approved by the City Council upon consideration of one or more of the following:
 - a. That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of 18.106.030.G(2), or;
 - b. That an alternative mix of housing types not meeting the requirements of 18.106.030.G(3)(b) would accomplish additional benefits to the City consistent with this chapter, than would the development providing a proportional mix of unit types.
 - c. That the alternative phasing proposal not meeting 18.106.030.G(4) provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion, or;
 - d. That the distribution of affordable units within the development not meeting 18.106.030.G(5) is necessary for development of an affordable housing project that provides onsite staff with supportive services or;
 - e. That the distribution of affordable units within the development as proposed would accomplish additional benefits for the city, consistent with the purposes of this

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chapter, than would development meeting the distribution requirement of 18.106.030.G(5), or;

- f. That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per 18.106.030.G(6), are necessary due to local, State, or Federal Affordable Housing standards or financing limitations;
8. The total number of affordable units described in this section 18.106.030.G shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years. Properties providing affordable units as part of the annexation process shall qualify for a maximum density bonus of 25 percent. (Ord 2792, 1997; Ord 2895, amended, 04/15/2003; Ord 2973, 11/4/2008)

H. One or more of the following standards are met:

1. The proposed area for annexation is to be residentially zoned, and there is less than a five-year supply of vacant and redevelopable land in the proposed land use classification within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the Housing Element of the Comprehensive Plan; or
2. The proposed lot or lots will be zoned CM, E-1 or C-1 under the Comprehensive Plan, and that the applicant will obtain Site Review approval for an outright permitted use, or special permitted use concurrent with the annexation request; or
3. A current or probable public health hazard exists due to lack of full City sanitary sewer or water services; or
4. Existing development in the proposed annexation has inadequate water or sanitary sewer service; or the service will become inadequate within one year; or
5. The area proposed for annexation has existing City of Ashland water or sanitary sewer service extended, connected, and in use, and a signed "consent to annexation" agreement has been filed and accepted by the City of Ashland; or
6. The lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits. (Ord 3036, amended, 08/17/10)

SECTION 18.106.040 Boundaries.

When an annexation is initiated by a private individual, the Staff Advisor may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City of Ashland. The Staff Advisor, in a report to the Commission and Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Planning Commission and Council to make annexations extending the City's boundaries more logical and orderly. (Ord 2792, 1997)

SECTION 18.106.050 Statutory Procedure.

The applicant for the annexation shall also declare which procedure under ORS Chapter 222 the applicant proposes that the Council use, and supply evidence that the approval through this procedure is likely. (Ord 2792, 1997)

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CHAPTER 18.108

PROCEDURES

SECTIONS:

- 18.108.010 Purpose.**
- 18.108.015 Pre-Application Conference.**
- 18.108.017 Applications.**
- 18.108.020 Types of Procedures.**
- 18.108.022 Ministerial Action Time Limits.**
- 18.108.025 Consolidated Review Procedures.**
- 18.108.030 Land Divisions.**
- 18.108.040 Type I Procedure.**
- 18.108.050 Type II Procedure.**
- 18.108.060 Type III Procedures.**
- 18.108.070 Effective Date of Decision and Appeals.**
- 18.108.080 Public Hearing Notice.**
- 18.108.100 Public Hearings Procedure.**
- 18.108.110 Appeal to Council.**
- 18.108.140 Fees.**
- 18.108.150 Council or Commission May Initiate Procedures.**
- 18.108.160 Ordinance Interpretations.**
- 18.108.170 Legislative Amendments.**
- 18.108.180 Resubmittal of Applications.**

SECTION 18.108.010 Purpose.

The purpose of this chapter is to establish procedures to initiate and make final decisions regarding planning actions.

SECTION 18.108.015 Pre-Application Conference.

An applicant shall request a pre-application conference prior to submitting an application for a Type I, II or III planning action or an Expedited Land Division. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Land Use Ordinance, provide for an exchange of information regarding applicable elements of the comprehensive plan and development requirements and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Staff advisor is authorized to waive pre-application conference requirements and to create procedures which allow for electronic or other alternative forms of conferences.

(Ord 2951, amended, 07/01/2008)

SECTION 18.108.017 Applications.

- A. In order to initiate a planning action, a complete application shall be submitted to the Planning Department as set forth below.
 - 1. Complete applications shall include:

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- a. All of the required information for the specific action requested,
 - b. Written findings of fact,
 - c. Complete and signed application form. The application must be signed by one or more property owners of the property for which the planning action is requested, or their authorized agents. The application shall not be considered complete unless it is accompanied by the appropriate application fee.
2. Incomplete applications are subject to delay in accordance with ORS 227.178. The City will inform the applicant of deficiencies within 30 days of application. The applicant then has 31 days in which to provide a complete application. The City will begin the appropriate application procedure when the application is deemed complete, or at the end of the 31 day period.
 3. The Staff Advisor is authorized to set standards and procedures for application submittal requirements, including the number and type of applications required (e.g. hard and/or electronic copies), size and format of applications (e.g. paper size and electronic format), and dates when applications can be received. The Staff Advisor shall make the requirements for application submittals readily available to the public to review.
- B. All applicants for Types I, II and III planning actions shall have completed a pre-application conference for the project within a 6-month time period preceding the filing of the application. This requirement may be waived by the Staff Advisor if in the Staff Advisor's opinion the information to be gathered in a pre-application conference already exists in the final application. (Ord 2951, amended, 07/01/2008)
- C. Priority planning action processing for LEED® certified buildings.
1. New buildings and existing buildings whose repair, alteration or rehabilitation costs exceed fifty percent of their replacement costs, that will be pursuing certification under the Leadership in Energy and Environmental Design Green Building Rating System (LEED®) of the United States Green Building Council shall receive top priority in the processing of planning actions.
 2. Applicants wishing to receive priority planning action processing shall provide the following documentation with the application demonstrating the completion of the following steps in working towards LEED® certification.
 - a. Hiring and retaining a LEED® Accredited Professional as part of the project team throughout the design and construction process.
 - b. The LEED® checklist indicating the credits that will be pursued. (Ord 3036, added, 08/17/10)

SECTION 18.108.020 Types of Procedures.

There are three general types of procedures: 1) ministerial actions; 2) planning actions, and 3) legislative amendments. When a project proposal involves more than one application and more than one type of procedure, the applications shall be reviewed together by the same decision body and follow the highest level procedure applying to any one of the applications.

- A. **Ministerial Actions.** The Staff Advisor shall have the authority to review and approve or deny the following matters which shall be ministerial actions:
1. Final subdivision plat approval. (18.80.050)
 2. Final partition map approval. (18.76.120)
 4. Minor amendments to subdivisions and partitions.
 5. Boundary line adjustments. (18.76.140)
 6. Zoning permits. (18.112.010)

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7. Sign permits. (18.96.050)
8. Home occupation permits. (18.94.130)
9. Extension of time limits for approved planning actions (18.112.030).
10. Mechanical equipment exempt from Site Review.
11. Conversion of existing multi-family dwelling units into for-purchase housing.

B. Planning Actions. All planning actions shall be subject to processing by one of the four following procedures:

1. Type I Procedure
2. Type II Procedure
3. Type III Procedure
4. Expedited Land Divisions

C. Legislative Amendments. Legislative amendments shall be subject to the procedures established in Section 18.108.170. (Ord 2951, Amended, 7/01/2008)

SECTION 18.108.022 Ministerial Action Time Limits.

A. Within 21 days after accepting an application for a ministerial action the Staff Advisor shall deny or approve the application unless such time limitation is extended with the consent of the applicant. The Staff Advisor shall not accept applications which cannot be acted upon initially in a rational manner within seven days of receipt unless the applicant consents to a longer period for action.

B. Within such 21 day period the Staff Advisor shall issue the permit or approval or advise the applicant that the application has been denied.

SECTION 18.108.025 Consolidated Review Procedures.

An applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 227.178. The consolidated procedure shall follow the most restrictive procedure in the development project. (Ord 2951, added, 7/01/2008)

SECTION 18.108.030 Expedited Land Divisions.

A. Applicability.

1. An expedited land division is an action that:
 - a. Includes land that is zoned for residential uses.
 - b. Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.
 - c. Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated for full or partial protection of natural features that protect open spaces, physical and environmental constraints per Chapter 18.62, riparian corridors, wetlands, designated historic districts or structures.
 - d. Meets minimum standards in the Street Standards Handbook and Section 18.88.050.
 - e. Creates enough lots or parcels to allow building residential units at 80 percent (80%) or more of the maximum net density permitted by the zoning designation of the site.
2. A land division that creates three or fewer parcels under ORS 92.010 and ALUO 18.76.

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3. An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 227.160.
4. All requirements outlined in Chapter 18.76 apply to expedited land divisions except for those provisions modified within this section.

B. Procedure and Notice Requirements.

1. Application Completeness.
 - a. If the application for expedited land division is incomplete, the Staff Advisor shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
 - b. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
2. The city shall provide written notice of the receipt of the completed application for an expedited land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.
3. The notice required under subsection (2) of this section shall:
 - a. State:
 - i. The deadline for submitting written comments;
 - ii. That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
 - iii. That issues must be raised with sufficient specificity to enable the local government to respond to the issue.
 - b. Set forth, by commonly used citation, the applicable criteria for the decision.
 - c. Set forth the street address or other easily understood geographical reference to the subject property.
 - d. State the place, date and time that comments are due.
 - e. State a time and place where copies of all evidence submitted by the applicant will be available for review.
 - f. Include the name and telephone number of a local government contact person.
 - g. Briefly summarize the local decision-making process for the expedited land division decision being made.
4. After notice under subsections (2) and (3) of this section, the city shall:
 - a. Provide a 14-day period for submission of written comments prior to the decision.
 - b. Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the local government's land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the city:

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- i. Shall not hold a hearing on the application; and
 - ii. Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.
- c. Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:
- i. The summary statement described in paragraph (b)(ii) of this subsection; and
 - ii. An explanation of appeal rights under ORS 197.375

C. Appeals

1. An appeal of a decision made under ORS 197.360 and 197.365 shall be made as follows:
 - a. An appeal must be filed with the local government within 14 days of mailing of the notice of the decision under ORS 197.365 (4), and shall be accompanied by a \$300 deposit for costs.
 - b. A decision may be appealed by:
 - i. The applicant; or
 - ii. Any person or organization who files written comments in the time period established under ORS 197.365.
 - c. An appeal shall be based solely on allegations:
 - i. Of violation of the substantive provisions of the applicable land use regulations;
 - ii. Of unconstitutionality of the decision;
 - iii. That the application is not eligible for review under ORS 197.360 to 197.380 and should be reviewed as a land use decision or limited land use decision; or
 - iv. That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.
2. The city shall appoint a referee to decide the appeal of a decision made under ORS 197.360 and 197.365. The referee shall not be an employee or official of the local government. The City Administrator is authorized to hire, under contract on an as needed basis, a referee to decide such appeals. If the city has designated a hearings officer under ORS 227.165, the City Administrator may designate the hearings officer as the referee for appeals of a decision made under ORS 197.360 and 197.365.
3. Within seven days of being appointed to decide the appeal, the referee shall notify the applicant, the local government, the appellant if other than the applicant, any person or organization entitled to notice under ORS 197.365(2) that provided written comments to the local government and all providers of public facilities and services entitled to notice under ORS 197.365(2) and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the local government but did not file an appeal under subsection (1) of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. The referee shall provide the local government an opportunity to explain its decision, but is not limited to reviewing the local government decision and may consider information not presented to the local government.
4. Referee Decision.
 - a. The referee shall apply the substantive requirements of the local government's land use regulations and ORS 197.360. If the referee determines that the application does

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not qualify as an expedited land division as described in ORS 197.360, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.

- b. The referee may not reduce the density of the land division application. The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of an appeal. The referee may not remand the application to the local government for any reason other than as set forth in this subsection.
5. Unless the governing body of the local government finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.
6. Notwithstanding any other provision of law, the referee shall order the city to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of \$500, including the deposit paid under subsection (1) of this section, against an appellant who does not materially improve his or her position from the decision of the local government. The local government shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the local government, but not the costs of other parties.

D. Effective Date of Decision. Unless appealed within 14 days of mailing a notice of decision, the Staff Advisor decision becomes final on the 15th day. Appeals shall be considered as set forth in ALUO 18.108.030(C) and ORS 197.375. (Ord 2951, amended, 7/01/2008; Ord 2942, amended, 10/02/2007)

SECTION 18.108.040 Type I Procedure.

A. Actions Included. The following planning actions shall be subject to the Type I Procedure:

1. Site Design Review. The following developments that are subject to the Site Design Review Standards outlined in 18.72 shall follow the Type I permit procedures.
 - a. Downtown Design Standards Zone. Any development which is less than 2,500 square feet or ten percent of the building's square footage, whichever is less.
 - b. Detail Site Review. Any development in the Detail Site Review Zone, as defined in the Site Review Standards adopted pursuant Chapter 18.72, which is less than 10,000 square feet in gross floor area.
 - c. Commercial, Industrial and Non-residential Uses.
 - i. All new structures, additions or expansions in C-1, E-1, HC and M zones, not within the Downtown Design Standards zone, that do not require new building area in excess of 20% of an existing building' s square footage or 10,000 square feet of gross floor area, whichever is less.
 - ii. All new structures or additions less than 15,000 square feet of gross floor area in the CM zoning district. (Ord 3036, added, 08/17/10)
 - iii. Mixed-use buildings and developments containing commercial and residential uses in residential zoning district with the Pedestrian Place Overlay. (Ord 3054, 12/16/11)
 - iv. Expansion of impervious surface area in excess of 10% of the area of the site or 1,000 square feet, whichever is less

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- v. Expansion of parking lots, relocation of parking spaces on a site, or other changes which alters circulation affecting adjacent property or public right-of-way.
 - vi. Any change of occupancy from a less intensive to a more intensive occupancy, as defined in the City building code, or any change in use which requires a greater number of parking spaces.
 - vii. Any change in use of a lot from one general use category to another general use category, e.g., from residential to commercial, as defined by the zoning regulations of this Code.
 - viii. Any exterior change to a structure which requires a building permit and is listed on the National Register of Historic Places or to a contributing property within an Historic District on the National Register of Historic Places.
 - ix. Mechanical equipment not otherwise exempt from site design review per Section 18.72.030.B. (Ord 3054, added 12/16/11)
 - x. Installation of wireless communication facilities in accordance with Section 18.72.180. (Ord 3054, added 12/16/11)
- d. Residential.
- i. Two or more residential units on a single lot.
 - ii. All new structures or additions less than 10,000 square feet of gross floor area, other than single-family homes or accessory uses on individual lots
 - iii. Construction of attached single-family housing (e.g. town homes, condominiums, row houses, etc.) in all zoning districts.
 - iv. Off-street parking or landscaping, in conjunction with an approved Performance Standards Subdivision required by ordinance and not located within the boundaries of the individual unit parcel (e.g. shared parking).
 - v. Any exterior change to a structure which requires a building permit and is listed on the National Register of Historic Places.
 - vi. Mechanical equipment not otherwise exempt from site design review per Section 18.72.030. (Ord 3054, added 12/16/11)
 - vii. Installation of wireless communication facilities in accordance with Section 18.72.180. (Ord 3054, added 12/16/11)
2. Miscellaneous Actions.
- a. Amendments or modification to conditions of approval for Type I planning actions.
 - b. Amendment or modification to conditions of approval for Type II actions where the modification involves only changes to tree removal and/or building envelopes.
 - c. Physical and Environmental Constraints Review permits as allowed in Chapter 18.62.
 - d. Tree removal permits as required by Section 18.61.042(D).
 - e. Limited Activities and Use permits as allowed in Chapter 18.63.
 - f. Water Resource Protection Zone Reductions of up to 25% as allowed in Chapter 18.63.
3. Conditional Use Permits. The following conditional use permits are subject to Type I review procedures:
- a. Conditional use permits involving existing structures or additions to existing structures, and not involving more than three (3) residential dwelling units.
 - b. Installation of wireless communication facilities in accordance with Section 18.72.180. (Ord 3054, added 12/16/11)
 - c. Temporary uses.
 - d. Enlargement, expansion, etc. of nonconforming structures in accordance with Section 18.68.090(2).

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- e. Government signs per Section 18.96.150.
 - f. The following uses in Residential zones:
 - i. Accessory residential units
 - ii. Daycare centers.
 - iii. Public and public utility buildings, structures and uses less than 2,500 square feet in building footprint and disturbs less than 7,500 square feet of land.
 - iv. Structures in excess of 35 feet in R-3 zone.
 - v. All new structures, additions or expansions that exceed MPFA in historic district up to 25%, but the addition is no larger than 300 s.f. or 10% of the existing floor area, whichever is less.
 - vi. Hostels.
 - vii. Public Parking Lots in the NM-C zone.
 - viii. Community Services in the NM-R15 zone.
 - g. The following uses in Commercial or Industrial zones:
 - i. Electrical substations
 - ii. Outdoor storage of commodities.
 - h. The following uses in the Health Care Services Zone:
 - i. Limited personal service providers in the home, such as beauticians and masseurs.
 - ii. Professional offices for an accountant, architect, attorney, designer, engineer, insurance agent or adjuster, investment or management counselor or surveyor.
 - iii. Any medically-related use, located on City-owned property that is not specifically allowed by the Ashland Community Hospital Master Facility Plan.
 - i. Conditional uses in the Southern Oregon University District.
4. Variances for:
- a. Sign placement.
 - b. Non-conforming signs, when bringing them into conformance as described in Section 18.96.130.D.
 - c. Up to 50% reduction of standard yard requirements.
 - d. Parking in setback areas.
 - e. Up to 10% reduction in the number of required parking spaces.
 - f. Up to 10% reduction in the required minimum lot area.
 - g. Up to 10% increase in the maximum lot coverage percentage.
 - h. Up to 20% reduction in lot width or lot depth requirements.
 - i. Up to 50% reduction for parking requirements in Ashland's Historic District as described in Section 18.92.055.
 - j. Up to 10% variance on height, width, depth, length or other dimension not otherwise listed in this section.
 - k. Site Design and Use Standards as provided in Section 18.72.090.
5. Partitions and Land Divisions.
- a. Partitions which require no variances or only variances subject to Type I procedures.
 - b. Creation of a private way, as allowed in Section 18.80.030.B.
 - c. Final Plan Approval for Performance Standards Subdivisions.
6. Any other planning action designated as subject to the Type I Procedure.
7. Prior to the Staff Advisor providing notice of application and making a decision, applicants or the Staff Advisor may request planning actions subject to a Type I procedure be heard by the Commission or Hearings Board. In such case, the Staff Advisor shall not make a decision and shall schedule a hearing before the Commission or Hearings Board to be heard as provided in Section 18.108.050.

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B. Notice of Application.

1. Within 10 days of the city' s determination that an application is complete, but no less than 20 days before the Staff Advisor makes a decision, written notice of the application shall be mailed to all of the following:
 - a. Applicant.
 - b. Owners of the subject property.
 - c. Owners of properties located within 200 feet of the perimeter of the subject property.
 - d. Neighborhood group or community organization officially recognized by the city council that includes the area of the subject property.
 - e. For final partitions, final subdivisions, and final Outline Plans, to interested parties of record from the tentative decision.
 - f. For modification applications, to persons who requested notice of the original application that is being modified.
2. The written notice shall include all of the following:
 - a. The street address or other easily understood geographical reference to the subject property.
 - b. The applicable criteria for the decision, listed by commonly used citation.
 - c. The place, date, and time that comments are due.
 - d. A statement that copies of all evidence relied upon by the applicant are available for review, and can be obtained at cost.
 - e. A statement that issues that may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision maker to respond to the issue.
 - f. The name and phone number of a city contact person.
 - g. A brief summary of the local decision making process for the decision being made.
3. Posted Notice. A notice shall be posted on the subject property in such a manner as to be clearly visible from a public right-of-way. Posting shall occur no later than the date of mailing notice of application.
4. Notices shall allow a 14-day period for the submission of written comments, starting from the date of mailing. All comments must be received by the city within that 14-day period.

- C. Decision.** Within 45 days of the city' s determination that an application is complete, unless the applicant agrees to a longer time period, the Staff Advisor shall approve, conditionally approve, or deny a Type I application.

D. Notice of Decision.

1. Within 5 days after the Staff Advisor renders a decision, the city shall mail notice of the decision to the following:
 - a. Applicant.
 - b. Owner and occupants of the subject property.
 - c. Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
 - d. Any group or individual who submitted written comments during the comment period.
 - e. Those groups or individuals who requested notice of the decision.
 - f. Property owners and occupants of property located within 200 feet of the perimeter of the subject property.
2. The notice shall include all of the following:
 - a. A description of the nature of the decision of the Staff Advisor.
 - b. An explanation of the nature of the application and the proposed use or uses which could be authorized.

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- c. The street address or other easily understood geographical reference to the subject property.
 - d. The name of a city representative to contact and the telephone number where additional information may be obtained.
 - e. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
 - f. A statement that any person who was mailed a written notice of the Staff Advisor's decision may request reconsideration or appeal as provided in ALUO 18.108.070(B)(2).
 - g. A statement that the Staff Advisor's decision will not become final until the period for filing a local appeal has expired.
 - h. An explanation that a person who is mailed written notice of the Staff Advisor's decision cannot appeal directly to LUBA.
3. Unless the decision is reconsidered or appealed according to the procedures in ALUO 18.108.070(B)(2), the Staff Advisor's decision is effective on the 13th day after notice of the decision is mailed. (Ord 2951, Amended, 07/01/2008)

SECTION 18.108.050 Type II Procedure.

- A. **Actions Included.** The following planning actions shall be subject to the Type II Procedure:
1. All Conditional Use Permits not subject to a Type I procedure.
 2. All variances not subject to the Type I procedure.
 3. Outline Plan for subdivisions under the Performance Standard Options (AMC Chapter 18.88).
 4. Preliminary Plat for subdivisions under the standard subdivision code (AMC Chapter 18.80).
 5. Final Plan approval for all subdivision requests under the Performance Standard Options not requiring Outline Plan approval.
 6. Water Resource Protection Zone Reductions greater than 25% and up to 50% as allowed in Chapter 18.63.
 7. Hardship Variances as allowed in Chapter 18.63.
 8. Any appeal of a Staff Advisor decision, including a Type I Planning Action or Interpretation of the Ashland Land Use Code.
 9. Any other planning action not designated as subject to the Type I or Type III Procedure.
- B. **Time Limits, Notice and Hearing Requirements.** Applications subject to the Type II Procedure shall be processed as follows:
1. The Staff Advisor, acting under the authority of ORS 227.165, may hold an initial evidentiary hearing on Type II applications once they are deemed complete. The Staff Advisor shall transmit copies of the record developed at the hearing to the Commission for additional public hearing, deliberation and decision. The Staff Advisor is not authorized to make decisions on Type II applications.
 2. Complete applications shall be heard at a regularly scheduled Commission meeting which is held at least 30 days after the submission of the complete application.
 3. Notice of the hearing mailed as provided in Section 18.108.080.
 4. Public hearing(s) shall be held before the Commission and/or Staff Advisor in accord with the requirements of Section 18.108.100. (Ord 2951, amended, 7/01/2008)

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SECTION 18.108.060 Type III Procedures.

A. The following planning actions shall be subject to the Type III Procedure:

1. Zone Changes or Amendments to the Zoning Map or other official maps, except for legislative amendments.
2. Comprehensive Plan Map Changes or changes to other official maps, except for legislative amendments.
3. Annexations.
4. Urban Growth Boundary Amendments

B. Standards for Type III Planning Actions.

1. Zone changes, zoning map amendments and comprehensive plan map changes subject to the Type III procedure as described in subsection A of this section may be approved if in compliance with the comprehensive plan and the application demonstrates that one or more of the following:
 - a. The change implements a public need, other than the provision of affordable housing, supported by the Comprehensive Plan; or
 - b. A substantial change in circumstances has occurred since the existing zoning or Plan designation was proposed, necessitating the need to adjust to the changed circumstances; or
 - c. Circumstances relating to the general public welfare exist that require such an action; or
 - d. Proposed increases in residential zoning density resulting from a change from one zoning district to another zoning district, will provide 25% of the proposed base density as affordable housing consistent with the approval standards set forth in Section 18.106.030(G); or
 - e. Increases in residential zoning density of four units or greater on commercial, employment or industrial zoned lands (i.e. Residential Overlay), will not negatively impact the City of Ashland's commercial and industrial land supply as required in the Comprehensive Plan, and will provide 25% of the proposed base density as affordable housing consistent with the approval standards set forth in Section 18.106.030(G).

The total number of affordable units described in sections D or E shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years. Sections D and E do not apply to council initiated actions.

C. Type III Procedure.

1. Applications subject to the Type III Procedure shall be process as follows:
 - a. Complete applications shall be heard at the first regularly scheduled Commission meeting which is held at least 45 days after the submission of the application.
 - b. Notice of the hearing shall be mailed as provided in Section 18.108.080.
 - c. A public hearing shall be held before the Commission as provided in Section 18.108.100.
2. For planning actions described in section 18.108.060.A.1 and 2, the Commission shall

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have the authority to take such action as is necessary to make the amendments to maps and zones as a result of the decision without further action from the Council unless the decision is appealed. The decision of the Commission may be appealed to the Council as provided in Section 18.108.110.

3. For planning actions described in Section 18.108.060.A.3 and 4, the Commission shall make a report of its findings and recommendations on the proposed action. Such report shall be forwarded to the City Council within 45 days of the public hearing.
 - a. Upon receipt of the report, or within 60 days of the Commission hearing, the Council shall hold a public hearing as provided in Section 18.108.100. Public notice of such hearing shall be sent as provided in Section 18.108.080.
 - b. The Council may approve, approve with conditions, or deny the application.

(Ord 2974, 11/04/2008; Ord 2951, amended, 7/01/2008; Ord 2895, amended, 04/15/2003)

SECTION 18.108.070 Effective Date of Decision and Appeals.

A. Ministerial actions are effective on the date of the decision of the Staff Advisor and are not subject to appeal.

B. Actions subject to appeal:

1. **Expedited Land Divisions.** Unless appealed within 14 days of mailing a notice of decision, the Staff Advisor decision becomes final on the 15th day. Appeals shall be considered as set forth in ALUO 18.108.030(C) and ORS 197.375.

2. **Type I Planning Actions.**

- a. Effective Date of Decision. The final decision of the City for planning actions resulting from the Type I Planning Procedure shall be the Staff Advisor decision, effective on the 13th day after notice of the decision is mailed unless reconsideration of the action is approved by the Staff Advisor or appealed to the Commission as provided in section 18.108.070(B)(2)(c).

- b. Reconsideration. The Staff Advisor may reconsider Type I planning actions as set forth below.

- i. Any party entitled to notice of the planning action, or any City Agency may request reconsideration of the action after the decision has been made by providing evidence to the Staff Advisor that a factual error occurred through no fault of the party asking for reconsideration, which in the opinion of the staff advisor, might affect the decision. Reconsideration requests are limited to factual errors and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.

- ii. Reconsideration requests shall be received within five (5) days of mailing. The Staff Advisor shall decide within three (3) days whether to reconsider the matter.

- iii. If the Planning Staff Advisor is satisfied that an error occurred crucial to the decision, the Staff Advisor shall withdraw the decision for purposes of reconsideration. The Staff Advisor shall decide within ten (10) days to affirm, modify, or reverse the original decision. The Staff Advisor shall send notice of the reconsideration decision to affirm, modify, or reverse to any party entitled to notice of the planning action.

- iv. If the Staff Advisor is not satisfied that an error occurred crucial to the decision, the Staff Advisor shall deny the reconsideration request. Notice of denial shall be sent to those parties that requested reconsideration.

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- c. Appeal.
 - i. Within twelve (12) days of the date of the mailing of the Staff Advisor's final decision, including any approved reconsideration request, the decision may be appealed to the Planning Commission by any party entitled to receive notice of the planning action. The appeal shall be submitted to the Planning Commission Secretary on a form approved by the City Administrator, be accompanied by a fee established pursuant to City Council action, and be received by the city no later than 4:30 p.m. on the 12th day after the notice of decision is mailed.
 - ii. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee required in this section shall not apply to appeals made by neighborhood or community organizations recognized by the city and whose boundaries include the site.
 - iii. The appeal shall be considered at the next regular Planning Commission or Hearings Board meeting. The appeal shall be a de novo hearing and shall be considered the initial evidentiary hearing required under ALUO 18.108.050 and ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. The Planning Commission or Hearings Board decision on appeal shall be effective 13 days after the findings adopted by the Commission or Board are signed by the Chair of the Commission or Board and mailed to the parties.
 - iv. The appeal requirements of this section must be fully met or the appeal will be considered by the city as a jurisdictional defect and will not be heard or considered.
 - d. Final Decision of City. The decision of the Commission shall be the final decision of the City on appeals heard by the Commission on Type I Planning actions, effective the day the findings adopted by the Commission are signed by the Chair and mailed to the parties.
3. **Type II Planning Actions.**
- a. Effective Date of Decision. The decision of the Commission is the final decision of the City resulting from the Type II Planning Procedure, effective 13 days after the findings adopted by the Commission are signed by the Chair of the Commission and mailed to the parties, unless reconsideration of the action is authorized as provided in Section (b) below or appealed to the Council as provided in section 18.108.110.A.
 - b. Reconsideration.
 - i. The Staff Advisor on his/her own motion, or any party entitled to notice of the planning action may request reconsideration of the action after the Planning Commission final decision has been made by providing evidence to the Staff Advisor addressing one or more of the following: (1) new evidence material to the decision exists which was unavailable, through no fault of the requesting party, when the record of the proceeding was open; (2) a factual error occurred through no fault of the requesting party which is relevant to an approval criterion and material to the decision; (3) a procedural error occurred, through no fault of the requesting party, that prejudiced the requesting party's substantial rights and remanding the matter will correct the error. Reconsideration requests are limited to errors identified above and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
 - ii. Reconsideration requests shall be received within seven (7) days of mailing. The Staff Advisor shall promptly decide whether to reconsider the matter.

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- iii. If the Staff Advisor is satisfied that an error occurred as identified above and is crucial to the decision, the Staff Advisor shall schedule reconsideration with notice to participants of the matter before the Planning Commission. Reconsideration shall be scheduled before the Planning Commission at the next regularly scheduled meeting. Reconsideration shall be limited to the portion of the decision affected by the alleged errors identified in paragraph 3.b.i above.
 - iv. The Planning Commission shall decide to affirm, modify, or reverse the original decision. The Planning Commission Secretary shall send notice of the reconsideration decision to any party entitled to notice of the planning action.
 - c. Final Decision of City. Unless the decision is remanded to the Planning Commission, the decision of the City Council shall be the final decision of the City on appeals heard by the Council, on Type II Planning actions, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.
4. **Type III Planning Actions**. For planning actions described in section 18.108.060.A.1 thru 4, the decision of the Council shall be the final decision of the City, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.
 5. **Council Call Up**. The City Council may call up any planning action for a decision upon motion and majority vote, provided such vote takes place in the required appeal period. Unless the planning action is appealed and a public hearing is required, the City Council review of the Planning Action is limited to the record and public testimony is not allowed. The City Council may affirm, modify or reverse the decision of the Planning Commission, or may remand the decision to the Planning Commission for additional consideration if sufficient time is permitted for making a final decision of the city. The City Council shall make findings and conclusions and cause copies of a final order to be sent to all parties of the planning action.
- C. No building or zoning permit shall be issued for any action under this Title until the decision is final, as defined in this section.
- D. Notwithstanding any other provision of this Chapter, in the event a LUBA appeal or a Circuit Court proceeding is filed concerning a final land use decision of the City, the timetable of development is deemed tolled or suspended from the date of the final decision of the City until final resolution of all appeals or final action on remand, whichever is later, not to exceed 24 months. After resolution of all such appeals or remands, timetables shall be adjusted in writing by the Staff Advisor to reflect this automatic tolling, regardless of the approval authority. (Ord 3005, amended, 03/02/2010; Ord 2951, amended, 07/01/2008)

SECTION 18.108.080 Public Hearing Notice.

Public notice for hearings before the Staff Advisor, Hearings Board or Commission for planning actions shall be given as follows:

- A. Notices shall be mailed at least 10 days prior to the hearing to:
 1. The applicant or authorized agent,
 2. The subject property owner, and
 3. All owners of record of property on the most recent property tax assessment roll within 200 feet of the subject property.
- B. Mailed notices shall contain the following information, provided, however, that notices for hearings before the Council shall not contain the statements specified in paragraphs 8 and 9:

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1. Explanation of the nature of the application and the proposed use or uses which could be authorized.
 2. List of the applicable criteria from the ordinance and the plan that apply to the application at issue.
 3. The street address or other easily understood geographical reference to the subject property.
 4. The name of a local government representative to contact and the telephone number where additional information may be obtained.
 5. A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
 6. The date, time and location of the hearing or of the meeting, if no hearing is involved.
 7. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.
 8. A statement that if additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing.
 9. A statement that unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing.
- C. Posted Notice. A notice, as described in this subsection, shall be posted on the subject property by the city in such a manner as to be clearly visible from a public right-of-way at least 10 days prior to the date of the hearing. Failure by the city to post a notice, or post in clear view from a public right-of-way shall be considered an incomplete application. The city shall certify, for the record of the hearing, that the posting was accomplished. The failure of the posted notice to remain on the property shall not invalidate the proceedings. The posted notice shall only contain the following information: planning action number, brief description of the proposal, phone number and address for contact at Ashland Planning Department.
- D. Additional Requirements for Type II and III Public Notice. In addition to the notice specified in section 18.108.080.A, B and C, notice for Type II and III procedures shall be published in a newspaper of general circulation in the City at least 10 days prior to the date of the hearing before the Commission.
- E. The failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was mailed. The failure to receive notice shall not invalidate the decision after the action is final if a good faith attempt was made to notify all persons entitled to receive notice.
- F. Whenever it is demonstrated to the Staff Advisor that:
1. The city did not mail the notice required in §18.108;
 2. Such error adversely affected and prejudiced a person's substantial rights; and
 3. Such person notified the Staff Advisor within 21 days of when the person knew or should have known of the decision, the Staff Advisor shall schedule a hearing for the next regular Commission or Hearings Board meeting allowing adequate time to comply with the notice requirements of Section 18.108.080. The public hearing shall be conducted as provided in §18.108.100.

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If a hearing is conducted under this section, the decision of the Commission or Hearings Board shall supersede the previous decision.

- G. Whenever it is demonstrated to the Staff Advisor that:
1. The city did not comply with the notice requirements in §18.108.080.A through E;
 2. Such error adversely affected and prejudiced a person's substantial rights; and
 3. Such person notified the Staff Advisor within 21 days of when the person knew or should have known of the decision, the Staff Advisor shall schedule a hearing before the Board, Commission or Council that heard or would have heard the matter involving the defective notice.
 - a. The Staff Advisor shall notify by mail all persons who previously appeared in the matter and all persons who were entitled to mailed notice but were not mailed such notice.
 - b. The hearing shall be conducted as provided in §18.108.100 if it is a hearing before the Board or Commission, except that the record of the previous hearing shall be reviewed and considered by the Board or Commission. If it is an appeal before the Council, the Council may hear such matters as are permitted in §18.108.110.

A decision made after the hearing shall supersede the previous decision.

- H. Notwithstanding the period specified in subsections F.3 and G.3 of this section, the period for a hearing or appeal shall not exceed three years after the date of the initial decision.

(Ord 2951, amended, 7/01/2008)

SECTION 18.108.100 Public Hearings Procedure.

- A. At the commencement of a public hearing a statement shall be made to those in attendance that:
1. Lists the applicable substantive criteria.
 2. States that testimony and evidence must be directed toward the listed applicable substantive criteria, or other criteria in the comprehensive plan or Land Use Ordinance which the person believes to apply to the decision.
 3. States that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.
 4. States that failure to participate in the public hearing, either orally or in writing, precludes appeal to LUBA.
 5. States the presentation and rebuttal time limits for the applicant, proponents, and opponents.
 6. Other general rules of conduct for the public hearing as deemed necessary by the Board or Commission.
- B. After the statement required by section 18.108.100.A is made, the Commission or Council members shall declare any actual or potential conflicts of interest and any ex parte contacts including the substance of those contacts and any conclusions the member reached because of those contacts.
1. No member shall serve on any proceeding in which such member has an actual conflict of interest; in which the member, or those persons or businesses described in ORS 227.035, has a direct or substantial financial interest; or in which the member is biased. If a member refuses to disqualify him or herself, the Board, for hearings before the

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- Board; the Commission, for hearings before the Commission, or the Council for hearings before the Council, shall have the power to remove such member for that proceeding.
2. All parties shall be advised that they have the right to rebut the substance of any ex parte communications.
- C. At such public hearing, after receipt of public testimony, the Board or Commission may approve, approve with conditions or deny the request. The Board or Commission may also continue the public hearing to the next meeting to allow for the submittal of additional information for consideration in the decision. At the public hearing, the date, time, and location for the continuance of the public hearing shall be stated. After such statement, no additional public notice shall be required.
- D. A majority of those members present at the public hearing must vote affirmatively in order to adopt findings.

SECTION 18.108.110 Appeal to Council.

- A. Appeals of Type II decisions shall be initiated by a notice of appeal filed with the City Administrator. The standard Appeal Fee shall be required as part of the notice. All the appeal requirements of Section 18.108.110, including the appeal fee, must be fully met or the appeal will be considered by the city as jurisdictionally defective and will not be heard or considered.
1. The appeal shall be filed prior to the effective date of the decision of the Commission.
 2. The notice shall include the appellant's name, address, a reference to the decision sought to be reviewed, a statement as to how the appellant qualifies as a party, the date of the decision being appealed, and a clear and distinct identification of the specific grounds for which the decision should be reversed or modified, based on identified applicable criteria or procedural irregularity.
 3. The notice of appeal, together with notice of the date, time and place to consider the appeal by the Council shall be mailed to the parties at least 20 days prior to the meeting.
 4. A. Except upon the election to re-open the record as set forth in subparagraph 4.B. below, the review of a decision of the Planning Commission by the City Council shall be confined to the record of the proceeding before the Planning Commission. The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted during the hearing or at other times when the record before the Planning Commission was open; recorded testimony; (including DVDs when available), the executed decision of the Planning Commission, including the findings and conclusions. In addition, for purposes of City Council review, the notice of appeal and the written arguments submitted by the parties to the appeal, and the oral arguments, if any, shall become part of the record of the appeal proceeding.
 - B. The Council may reopen the record and consider new evidence on a limited basis, if such a request to reopen the record is made to the City Administrator together with the filing of the notice of appeal and the City Administrator determines prior to the City Council appeal hearing that the requesting party has demonstrated:
 - a. That the Planning Commission committed a procedural error, through no fault of the requesting party, that prejudiced the requesting party's substantial rights and that reopening the record before the Council is the only means of correcting the error; or

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- b. That a factual error occurred before the Planning Commission through no fault of the requesting party which is relevant to an approval criterion and material to the decision; or
- c. That new evidence material to the decision on appeal exists which was unavailable, through no fault of the requesting party, when the record of the proceeding was open, and during the period when the requesting party could have requested reconsideration. A requesting party may only qualify for this exception if he or she demonstrates that the new evidence is relevant to an approval criterion and material to the decision. This exception shall be strictly construed by the Council in order to ensure that only relevant evidence and testimony is submitted to the hearing body.

Re-opening the record for purposes of this section means the submission of additional written testimony and evidence, not oral testimony or presentation of evidence before the City Council.
- C. Oral argument on the appeal shall be permitted before the Council. Oral argument shall be limited to ten (10) minutes for the applicant, ten (10) for the appellant, if different, and three (3) minutes for any other Party who participated below. A party shall not be permitted oral argument if written arguments have not been timely submitted. Written arguments shall be submitted no less than ten (10) days prior to the Council consideration of the appeal. Written and oral arguments on the appeal shall be limited to those issues clearly and distinctly set forth in the Notice of Appeal; similarly, oral argument shall be confined to the substance of the written argument.
- D. Upon review, and except when limited reopening of the record is allowed, the City Council shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the Planning Commission, or to determining if errors in law were committed by the Commission. Review shall in any event be limited to those issues clearly and distinctly set forth in the notice of appeal. No issue may be raised on appeal to the Council that was not raised before the Planning Commission with sufficient specificity to enable the Commission and the parties to respond.
- E. The Council may affirm, reverse, modify or remand the decision and may approve or deny the request, or grant approval with conditions. The Council shall make findings and conclusions, and make a decision based on the record before it as justification for its action. The Council shall cause copies of a final order to be sent to all parties participating in the appeal. Upon recommendation of the Administrator, the Council may elect to summarily remand the matter to the Planning Commission. If the City Council elects to remand a decision to the Planning Commission, either summarily or otherwise, the Planning Commission decision shall be the final decision of the City, unless the Council calls the matter up pursuant to Section 18.108.070.B.5.
- F. Appeals may only be filed by parties to the planning action. "Parties" shall be defined as the following:
 - 1. The applicant.
 - 2. Persons who participated in the public hearing, either orally or in writing. Failure to participate in the public hearing, either orally or in writing, precludes the right of appeal to the Council.
 - 3. Persons who were entitled to receive notice of the action but did not receive notice due to error. (Ord 2951, amended, 7/01/2008)

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SECTION 18.108.140 Fees.

Fees for applications under this Title shall be set by resolution of the Council.

SECTION 18.108.150 Council or Commission May Initiate Procedures.

The Commission or Council may initiate any Staff Permit, Type I, Type II, or Type III planning action by motion duly adopted by the respective body designating the appropriate city department to complete and file the application.

SECTION 18.108.160 Ordinance Interpretations.

- A. When in the administration of the Land Use Ordinance there is doubt regarding its intent, the suitability of uses not specified or the meaning of a word or phrase, the Staff Advisor may interpret the provision in writing or refer the provision to the Commission for interpretation. The Commission shall issue an interpretation in writing to resolve the doubt. Neither the Staff Advisor's interpretation nor the Commission's shall have the effect of amending the provisions of the Land Use Ordinance. Any interpretation of the Land Use Ordinance shall be based on the following considerations:
1. The comprehensive plan;
 2. The purpose and intent of the Land Use Ordinance as applied to the particular section in question; and
 3. The opinion of the City Attorney.
- B. The interpretation of the Staff Advisor shall be forwarded to the Commission who shall have the authority to modify the interpretation. The interpretation of the Commission shall be forwarded to the Council who shall have the authority to modify the interpretation. Whenever such an interpretation is of general public interest, copies of such interpretation shall be made available for public distribution.

SECTION 18.108.170 Legislative Amendments.

- A. It may be necessary from time to time to amend the text of the Land Use Ordinance or make other legislative amendments in order to conform with the comprehensive plan or to meet other changes in circumstances and conditions. A legislative amendment is a legislative act solely within the authority of the Council.
- B. A legislative amendment may be initiated by the Council, by the Commission, or by application of a property owner or resident of the City. The Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is submitted, and within thirty days after the hearing, recommend to the Council, approval, disapproval, or modification of the proposed amendment.
- C. An application for amendment by a property owner or resident shall be filed with the Planning Department thirty days prior to the Commission meeting at which the proposal is to be first considered. The application shall be accompanied by the required fee.
- D. Before taking final action on a proposed amendment, the Commission shall hold a public hearing. After receipt of the report on the amendment from the Commission, the Council

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shall hold a public hearing on the amendment. Notice of time and place of the public hearings and a brief description of the proposed amendment shall be given notice in a newspaper of general circulation in the City not less than ten days prior to the date of hearing.

- E. No application of a property owner or resident for a legislative amendment shall be considered by the Commission within the twelve month period immediately following a previous denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.

SECTION 18.108.180 Resubmittal of Applications.

In case an application is denied by the Commission, or denied by the Council on appeal, unless that denial is specifically stated to be without prejudice, it shall not be eligible for resubmittal for one year from the date of the denial, unless evidence is submitted that conditions, the application, or the project design have changed to an extent that further consideration is warranted. (Ord 2299, 1984; Ord 2583, 1990; Ord 2775, 1996)

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CHAPTER 18.110

BALLOT MEASURE 49 CLAIMS - amended Ord 2948 02/19/2008

SECTIONS:

- 18.110.005 Purpose and Scope.**
- 18.110.010 Definitions.**
- 18.110.015 Measure 49: Delegation of authority to City Administrator.**
- 18.110.020 Measure 49: Claim for Compensation.**
- 18.110.025 City Administrator Review and Decision.**
- 18.110.035 City Council Consideration and Decision.**
- 18.110.040 Burden of proof and Record.**
- 18.110.045 Effect of Waiver.**
- 18.110.050 Procedural Error.**
- 18.110.060 Recording.**
- 18.110.065 Reconsideration of Waiver.**
- 18.110.070 Appeals.**

SECTION 18.110.005 Purpose and Scope.

- A. ORS 197.352(5) authorizes local government to establish procedures governing new claims under Section 12 to 14 of Ballot Measure 49 (2007). These provisions are in addition to and not in lieu of the requirements of Ballot Measure 49.

- B. As it relates to City claims, Ballot Measure 49 permits compensation claims only when a non-exempt City land development regulation, enacted after January 1, 2007, restricts the residential use of private real property zoned for primarily single family residential use and it can be demonstrated in a qualified appraisal that the restriction reduces fair market value.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.010 Definitions.

For the purposes of this Chapter, and the evaluation, assessment and processing of Measure 49 claims, the following mean:

- A. "Ballot Measure 49" means the measure enacted by the voters at the November, 2007 General Election, which amended ORS Chapter 197.

- B. "Claim" means a written demand for compensation filed under Section 12 to 14 of Measure 49 and ORS 197.25, as in effect on and after the effective date of Measure 49

- C. "Claimant" means the person who has filed a claim. The claimant must be a current owner of the property that is the subject of the claim.

- D. "City Administrator": the City Administrator of the City of Ashland, or the City Administrator's designee.

- E. "Fair market value" is the amount of money, in cash, that the property would bring if the property was offered for sale by a person who desires to sell the property but is not

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obligated to sell the property, and if the property was bought by a person who was willing to buy the property but not obligated to buy the property. The fair market value is the actual value of property, with all of the property's adaptations to general and special purposes. The fair market value of property does not include any prospective value, speculative value or possible value based upon future expenditures and improvements.

- F. "Interest" Is the average interest rate for a one-year United States Government Treasury Bill on December 31 of each year of the period between the date the land use regulation was enacted and the date the claim was filed, compounded annually on January 1 of each year of the period.
- G. "Land Use Regulation" means a provision of a city comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use.
- H. "Property" means the private real property described in a claim and contiguous private real property that is owned by the same owner, whether or not the contiguous property is described in another claim, and that is not property owned by the federal government, an Indian tribe or a public body, as defined in ORS 192.410.
- I. "Reduction in fair market value" means the difference, if any, in the fair market value of the property from the date that is one year before the enactment of the land use regulation to the date that is one year after the enactment, plus interest.
- J. "Urban growth boundary" has the meaning given that term in ORS 195.060.
- K. "Waive" or "Waiver" means an action or decision authorizing the claimant to use the property without application of the land use regulation(s) to the extent necessary to offset the reduction in fair market value of the property.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.015 Measure 49: Delegation of authority to City Administrator.

- A. The City Administrator is delegated authority to determine the validity of, and grant non-monetary compensation for, claims filed under Section 12 to 14 of Measure 49 after June 28, 2007. The City Administrator may not authorize monetary payment for any claim, nor may the City Administrator award transferable development credits.
- B. The City Administrator may forward any claim to the City Council for resolution if the City Administrator determines it would be in the public interest to do so. The City Administrator shall forward a claim to the City Council for a decision if the City Administrator concludes that payment of monetary compensation or an award of transferable development credits is an appropriate remedy.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.020 Measure 49: Claim for Compensation.

- A. Filing. All claims shall be filed with the City Administrator in person or by U.S. mail. The filing date is the date the claim is received by the City.

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B. Submittal requirements:

1. Claimant shall file a fully executed and completed Measure 49 claim form provided by the City Community Development Department including:
 - a. The name and address of each owner and the date (supported by evidence) when the property was acquired.
 - b. The address, if any, tax lot number, township, range and section of the property that is the subject of the claim;
 - c. A specific statement of the person's desired use of the property for residential use;
 - d. A specific reference (or citation) to each land use regulation enacted after January 1, 2007 that is alleged to restrict the person's desired use of the property and when the land use regulations were enacted (the reference must be specific enough to permit the City to identify the precise regulation);
 - e. The amount of reduction in fair market value (supported by evidence) alleged for each regulation at issue plus interest;
 - f. Whether a previous permit was issued for development of the property including a description of the use and case file number;
 - g. Whether a claim was filed for the subject property with the state or any other government; and
 - h. Any other information reasonably related to the review and processing of the claim as required by the Director of Community Development or as provided on the Measure 49 claim form.
2. Claimant shall also provide:
 - a. Evidence of the acquisition date of the claimant, including the instrument conveying the property to the claimant and a report from a title company identifying the person in which title is vested and the claimant's acquisition date and described exceptions and encumbrances to title that are of record;
 - b. The written consent of all of the owners if there is more than one owner;
 - c. A qualifying appraisal (consistent with Section 12 (2) of the Measure) showing the fair market value of the property one year before the enactment of each land use regulation and the fair market value of the property one year after the enactment. The actual and reasonable cost of preparing the claim, evidenced by receipts, including the cost of the appraisal, not to exceed \$5,000, may be added to the calculation of the reduction in fair market value under this subsection. The appraisal must: (1) be prepared by a person certified under ORS chapter 674 or a person registered under ORS chapter 308; (2) comply with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and (3) expressly determine the highest and best use of the property at the time the land use regulation was enacted; and
 - d. A claim review fee to cover the actual and reasonable cost of reviewing the claim, of seven hundred fifty dollars (\$750) or such other claim(s) review fee as set by Resolution of the City Council.
3. Only one claim for each property may be filed for each land use regulation.

C. Claim review process. The city shall:

1. Deny a claim if:
 - a. It is not filed within five (5) years from the date the land use regulation was enacted;
 - b. An application for a comprehensive plan or zoning amendment is approved for the subject property;
 - c. An application to include the property within the UGB is approved; or

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- d. A petition to annex the property is approved by the city.
2. Determine whether a claim is complete within sixty (60) days after receiving the claim;
3. Notify the claimant of any missing information within sixty (60) days after receiving the claim;
4. After providing notice of missing information, deem the application complete if:
 - a. The claimant provides the missing information and the required fee; or
 - b. The claimant provides written statement that some or all of the missing information will not be provided and the required fee.
5. Deem the application complete if the city fails to notify the claimant of missing information within sixty (60) days after receiving the claim;
6. Deem the application withdrawn if the claimant fails to provide the missing information, fee or a written statement that some or all of the information will not be provided within the time specified in the notice of missing information; and
7. Issue a final determination on a claim within 180 days from the date the claim is deemed complete.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.025 City Administrator Review and Decision.

- A. Claims review process. Upon receipt of a filing, the City Administrator shall follow the claims review process under Section 18.110.020.
- B. Review criteria. The City Administrator shall determine whether to approve or deny the claim based upon the criteria and standards in Ballot Measure 49 and based upon a demonstration by the owner that:
 1. A city land use regulation enacted after January 1, 2007 and after the property was acquired by the owner(s) restricts the owner's desired residential use of the property;
 2. The city land use regulation has the effect of reducing the fair market value of the property;
 3. The highest and best use of the property at the time the property was acquired is the owner's desired use of the property;
 4. The land use regulation is not an exempt land use regulation under the terms of Ballot Measure 49;
 5. The time limitations for filing a claim, as specified in Ballot Measure 49, have not been exceeded; and
 6. All other requirements of law, including Measure 49 requirements not specifically stated herein, have been met.
- C. Acquisition date. The date the property was acquired is:
 1. The date the claimant became the owner of the property as shown in the deed records of Jackson County;
 2. If there is more than claimant for the same property under the same claim and the claimants have different acquisition dated, the acquisition date is the earliest of those dated;
 3. If the claimant is the surviving spouse of a person who was an owner of the property in fee title, the claimant's acquisition date is the date the claimant was married to the deceased spouse or the date the spouse acquired the property, whichever is later. A claimant or a surviving spouse may disclaim relief by using the procedure provided in ORS 105.623 to 105.649; and

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4. If a claimant conveyed the property to another person and reacquired the property, whether by foreclosure or otherwise, the claimant's acquisition date is the date the claimant reacquired ownership of the property.
- D. A default judgment entered after December 2, 2004, does not alter a claimant's acquisition date unless the claimant's acquisition date is after December 2, 2004.
- E. Notice of opportunity to comment of staff report. If a claim is deemed complete and is not rejected, the City Administrator shall draft a staff report. No less than thirty days (30) notice of an opportunity to submit written comments on the staff report shall be sent to:
1. The claimant or representative and all owners of the subject property known to the City;
 2. All property owners of record within one hundred (100) feet of the subject property.
 3. Any formally recognized City neighborhood association in which the subject property is located;
 4. The Department of Land conservation and Development;
 5. Any special district or school district in which the property is located or which has requested notice;
 6. Jackson County; and
- F. The notice shall contain:
1. The address, if any, tax lot number, township range and section of the property that is the subject of the claim and the date when the property was acquired;
 2. A statement of the claim, including the owner's desired use of the property for residential use;
 3. A summary of the staff report including the number of dwellings, lots or parcels as well as the specific regulations alleged to restrict the use of the property;
 4. A statement that the claim, staff report and any information submitted is available at the Ashland Community Development Department, 51 Winburn Way, Ashland, Oregon 97520, for inspection or copying at cost and the phone number of a City staff contact;
 5. A statement that all persons may submit written comments, evidence and arguments within the comment period which shall end on a date certain as specified in the notice (not less than thirty (30) days from the date the notice is mailed);
 6. A statement that judicial review of the final determination on the claim is limited to the written evidence and arguments submitted to the city while the record is open;
 7. A statement that prior to the end of the comment period the claimant may request an additional seven (7) days to respond to new evidence or to submit final arguments
 8. A statement that judicial review is available only for issues that are raised with sufficient specificity to afford the public entity an opportunity to respond; and
 9. Any other information as deemed necessary by the City Administrator.
- G. The City Administrator shall consider comments actually received by the conclusion of the comment period and such other information as the City Administrator deems relevant and material. Any request by claimant to respond to new evidence or to submit final arguments must be submitted before the close of the written comment period as provided in the notice. The claimant shall receive seven days to submit such evidence or argument.
- H. Final waiver or rejection of claim. A decision to issue a waiver or reject a claim shall be reduced in writing and signed by the City Administrator. The City Administrator may waive some regulations identified in the claim and deny waiver of others. The City Administrator may not waive regulations that are not specified in the claim. The City Administrator may

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impose reasonable conditions on the waiver to protect the public interest.

- I. Notice of final waiver or rejection of a claim. The City Administrator shall send notice and a copy of the decision to the claimant. Notice of the final decision shall also be sent to anyone who submitted any written evidence or arguments prior to the close of the comment period and to all persons entitled to notice of the comment period. The notice shall contain a brief description of the waiver, if any, including a listing of all regulations that the City Administrator has decided to not apply and the specific number of dwellings, lots or parcels authorized by the waiver. The notice also shall state that a claim has been, or may need to be, filed with the State, or other entity, if the City Administrator thinks that a state or other governmental regulation is implicated.
- J. The City Administrator may forward a claim to the City Council for a public hearing and decision in accordance with Section 18.110.035 and this Section. The City Administrator shall consider such factors as: the amount of compensation at issue; the nature of the proposed use or development, if any; and the impact of the proposed use or development. The decision of the City Administrator to forward the claim to the City Council is final and not subject to appeal. The City Council, however, may summarily and without notice or hearing elect to return the claim to the City Administrator for a decision.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.035 City Council Consideration and Decision.

- A. Claim processing. All claims transferred by the City Administrator to the City Council shall be processed by the City Administrator consistent with the claims review process provided under this Chapter. The City Council shall issue a final decision after providing notice and a hearing within 180 days from the date the claim is deemed complete.
- B. Notice and hearing. The decision of the City Council shall be made after a public hearing conducted in accordance with such procedures as the City Council may adopt. At least thirty (30) days written notice shall be provided of the public hearing and include such information as is set forth in Section 18.110.030, providing all required notices above are modified to include reference to the public hearing date rather than the comment period. A staff report will be available at least fourteen (14) calendar days prior to the hearing addressing:
 - 1. Whether the claim filed is complete; and
 - 2. A recommendation as to whether and how much to pay in compensation, or, in lieu thereof, a recommendation on an award of transferable development credits, or a recommendation regarding the number of dwellings and lots that may be approved and the land regulation(s) that should be waived.
- C. Final decision. The City Council may reject the claim, pay compensation, award transferable development credits, issue a waiver or approve any combination of such remedies. The decision shall otherwise be decided based on the same review criteria applicable to a decision issued by the City Administrator under Section 18.110.030. The City Council may waive some regulations specified in the claim and deny waiver of others. The City Council is not limited to those regulations listed in the claim and may impose any conditions of approval that it deems reasonable and appropriate to protect the public interest. Notice of the City Council's final decision shall be mailed to any person entitled to notice of the

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hearing or that appeared orally or in writing at the public hearing.
(Ord 2948, amended, 02/19/2008)

SECTION 18.110.040 Burden of proof and Record.

The claimant shall have the burden of proof on all matters under this Chapter. The claimant bears sole responsibility for ensuring that the record before the City contains all information and evidence necessary to support the claim. The claimant shall be precluded from submitting information or raising new issues in any subsequent proceeding.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.045 Effect of Waiver.

- A. A decision to waive a land use regulation shall in no way impact any obligation to demonstrate compliance with any regulations not expressly provided for in the decision or to obtain any required approvals or permits.

- B. A use authorized by a waiver has the legal status of a lawful nonconforming use in the same manner as provided under ORS 215.130. The claimant may carry out a use authorized by a public entity under this section except that a public entity may waive only land use regulations that were enacted by the public entity. When a use authorized by this section is lawfully established, the use may be continued lawfully in the same manner as provided by ORS 215.130.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.050 Procedural Error.

No procedural defect in processing a claim shall invalidate any proceeding or decision unless the party alleging the error demonstrates prejudice to a substantial right. Inadvertent failure to provide notice or complete notice shall not be grounds for invalidating a decision.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.060 Recording.

The City shall record a memorandum of the final waiver in the deed records for Jackson County, Oregon.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.065 Reconsideration of Waiver.

The City Council or City Administrator may, at its sole discretion, reconsider a decision on a claim if it appears that the decision is inconsistent with a subsequent court ruling; administrative rule or other change in the law relative to Measure 49. The decision to reconsider may be made without notice or hearing; but, the decision on reconsideration shall be made only after notice and opportunity to be heard consistent with the requirements for claim review provided under this Chapter for City Administrator and City Council review whichever is applicable. At the conclusion of the process, the City Council or City Administrator may affirm, modify, or revoke the earlier decision. If the City Council modifies or revokes a decision that resulted in payment of compensation, the City Council shall specify the amount due from the claimant and the City may institute an action for recovery. If the City Council or City Administrator modifies or revokes

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a decision to modify, remove, or not apply a land use regulation, it shall issue an order setting forth such remedy as it deems appropriate to protect the public interest.

(Ord 2948, amended, 02/19/2008)

SECTION 18.110.070 Appeals.

A. A person that is adversely affected by a final determination of under this Chapter may obtain judicial review of that determination under ORS 34.010 to 34.100. A person is adversely affected if the person is:

1. An owner of the property that is the subject of the final determination or;
2. A person who timely submitted written evidence, arguments or comments.

B. Judicial review of a decision under this Chapter is:

1. Limited to evidence in the record at the time of the final determination; and
2. Available only for issues raised with sufficient specificity to afford an opportunity to respond.

(Ord 2948, amended, 02/19/2008)

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CHAPTER 18.112

ENFORCEMENT

SECTIONS:

- 18.112.010 Zoning permits.**
- 18.112.020 Maintenance of minimum requirements.**
- 18.112.030 Revocation - permit expiration.**
- 18.112.040 Revocation - conditions violated.**
- 18.112.050 Public hearing.**
- 18.112.060 Duties of Officer.**
- 18.112.070 Interpretation.**
- 18.112.080 Violations--nuisance.**
- 18.112.085 Conditions of Approval.**
- 18.112.090 Penalties.**
- 18.112.100 Complaints.**

SECTION 18.112.010 Zoning permits.

Zoning permits or approval shall be required for all buildings and structures, hereinafter erected, constructed, altered, repaired, or moved within or into any district established by this Title, and for the use of vacant land or for a change in the character of the use of land or buildings, within any district established by this Title. Such permit may be a part of the building permit.

SECTION 18.112.020 Maintenance of minimum requirements.

No lot area, yard, or other open space, or required off-street parking or loading area existing on or after the effective date of the ordinance codified herein shall be reduced in area, dimension, or size below the minimum required herein, nor shall any lot area, yard, or other open space or off-street parking or loading area which is required by this Title for one use be used as the lot area yard, or other open space of off-street parking or loading are requirement for any other use.

(Ord. 2052, 1979)

SECTION 18.112.030 Revocation - permit expiration.

Any zoning permit, or planning action granted in accordance with the terms of this Title shall be deemed revoked if not used within one year from date of approval, unless another time period is specified in another section of this Title. Said permit shall not be deemed used until the permittee has actually obtained a building permit, and commenced construction thereunder, or has actually commenced the permitted use of the premises. If an application for extension is deemed complete for processing prior to the timetable expiration date, the permit or action shall not expire by operation of this section unless the application is abandoned or not approved or denied within 90 days.

(Ord 3005, amended, 03/02/2010; ORD 2951, amended, 07/01/2008)

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SECTION 18.112.035 Timetable Extension

- A. The Staff Advisor shall grant a timetable extension of any zoning permit or planning action approval under demonstrated compliance with the following conditions:
1. One time extension no longer than eighteen (18) months is allowed.
 2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completing the development within the original time limitation.
 3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and there is no material effect upon the original approval, and the applicant agrees to comply with any new requirements, as a condition of the extension.
- B. Notwithstanding any other provision of this Chapter, any zoning permit or planning action approval having received approval prior to July 1, 2009, and current as of January 1, 2010, shall be granted an additional twelve (12) month extension of time, upon application to the Staff Advisor. This extension is in addition to any other time extension previously granted or that may be granted. The Staff Advisor shall make the timetable adjustment regardless of the original approval authority.

(Ord 3007, added, 03/02/2010; Ord 3005, added, 03/02/2010)

SECTION 18.112.040 Revocation - conditions violated.

Any zoning permit, or planning action granted in accordance with the terms of this Title may be revoked if any of the conditions or terms of such permit or variance are violated or if any law or ordinance is violated in connection therewith.

(Ord 2951, amended, 07/01/2008)

SECTION 18.112.050 Public hearing.

- A. The Commission shall hold a hearing on any proposed revocation after giving written notice to the permittee and owners within two hundred feet of subject property as provided in the Chapter on Conditional Use Permits.
- B. The Commission shall render its decision within thirty (30) days after the conclusion of the hearing.
- C. In case the permittee is not satisfied with the action of the Commission, he/she may within fifteen (15) days appeal in writing to the City Council.
- D. The Council shall set a date for public hearing and shall give notice thereof in the manner provided in the Chapter on Conditional Use Permits. Notice shall also be given to the Commission of such appeal, and a report shall be submitted setting forth the reasons for the action taken by the Commission, or it shall be represented at the hearing.
- E. The Council shall render its decision within sixty (60) days after the filing of such appeal.

(Ord. 2052, 1979)

SECTION 18.112.060 Duties of Officer.

All departments, officials, and employees of the City vested with the duty or authority to issue permits shall conform to the provisions of this Title and shall issue no permit, certificate, or license for uses, buildings or purpose in conflict with the provisions of this Title; and any provisions of this Title, intentionally or otherwise, is null and void. It shall be the duty of the building official or staff advisor to enforce the provisions of this Title pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to any building or

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structure and the use of any land, building, or premises.

(Ord. 2097, 1980)

SECTION 18.112.070 Interpretation.

The provisions of this Title shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this Title are less restrictive than comparable conditions imposed by any other provision of this Title or of any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

SECTION 18.112.080 Violations--nuisance.

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Title, and any use of land, building, or premise established, conducted, operated, or maintained contrary to the provisions of this Title, shall be and the same is hereby declared to be unlawful and a public nuisance, and the City Attorney of the City may, or upon order of the City Council shall, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and may take such other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such buildings or prevent any person from setting up, erecting, building, maintaining, or using any such building or structure or using property contrary to the provisions of this Title. The remedies provided for herein shall be cumulative and not exclusive.

SECTION 18.112.085 Conditions of Approval.

The Staff Advisor, the Planning Commission, the Hearings Board, or the City Council, when acting as the hearing authority, may impose conditions of approval on any planning action to modify that planning action to comply with the criteria of approval or to comply with other applicable City ordinances. Such conditions shall be binding on the approved planning action, and a violation of a condition imposed by the hearing authority shall be a violation of Title 18, and subject to all the penalties thereof.

(Ord 2520, 1989)

SECTION 18.112.090 Penalties.

Any person, firm or corporation, whether as principal, agent employee, or otherwise, violating or causing the violation of any of the provisions of this Title has committed a Class A violation offense, and upon conviction thereof is punishable as prescribed in Section 1.08.020 of the Ashland Municipal Code, subject to the limitations of the Ashland City Charter. Such person, firm, or corporation is guilty of a separate violation for each and every day during any portion of which any violation of this Title is committed or continued by such person, firm or corporation.

(Ord 3005, Amended, 03/02/2010)

SECTION 18.112.100 Complaints.

Complaints concerning violations to this Title can be initiated only as provided in AMC Chapter 1.08.

(Ord 3005, amended, 03/02/2010)

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CHAPTER 18.114

**CHAPTER REGULATORY TAKING CLAIMS- REPEALED ORDINANCE 2892
12/17/02**